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AUGUST 1991
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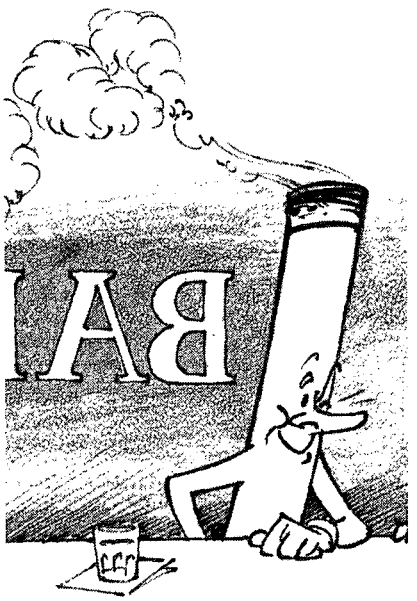

Cover illustration by Kenneth Spengler

Publisher, Thomas R. Hoeber; **Editor,** Richard Zeiger; **Managing Editor,** A.G. Block; **Circulation,** Susan Franklin; **Production Coordinator,** Roberta-Anne Kaminski; **Art Staff,** Renée Ravizza, Patricia L. Tweten; **Staff,** Lyn Collins, Theresa Nelson, Hope Tuttle; **Washington Correspondent,** Larry Liebert; **Interns,** Chris Ziegler, Eric Wat.

Advertising Representatives: Sacramento: Media Marketing (916) 452-3242
San Francisco: Capitol to Capitol Communications, Marc Wolin (415) 441-7910

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CALIFORNIA JOURNAL is a non-partisan, non-ideological analysis of California government and politics established in 1970. The *Journal* is indexed in Public Affairs Information Service, New York Times Information Bank, Sage Urban Studies Abstracts, Urban Affairs Abstracts, and California Periodicals Index. *California Journal* (ISSN00081205) is published monthly. Subscription rates: Libraries and Government Agencies, $49.00; Corporations and Associations, $95.00; Special Individual rate, $32.00. Address all inquiries to California Journal, 1714 Capitol Avenue, Sacramento, California 95814. Telephone (916) 444-2840. Copyright 1991 by Information for Public Affairs, Inc., Second class postage paid at Sacramento. POSTMASTER: Send address changes to CALIFORNIA JOURNAL, 1714 Capitol Avenue, Sacramento, CA 95814.

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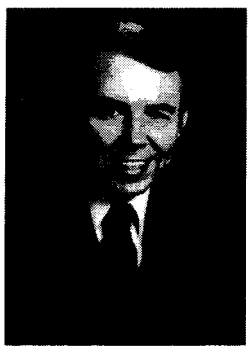
UP FRONT



Ross Johnson was always miscast as minority leader in the Assembly. Johnson is a street fighter; a man who believes that conviction should come before compromise. He is among the more conservative members of his caucus and he's temperamentally disinclined toward putting ideology aside in the cause of legislative peace. When George Deukmejian was governor, those traits didn't matter so much. He was in the service of a governor who wanted to say 'no,' a stance that fit nicely with his own efforts. But Pete Wilson is a different sort of governor. And Johnson couldn't adjust. He refused to vote with his own governor for the measures that made passage of the state budget possible, forcing Wilson to go to the Democrats for his support. With this administration, it won't do to be among the "people who didn't have the courage to participate" in the messy work of governing. Johnson was helpless as Wilson peeled apart the Assembly Republican caucus to get the budget he needed. The day after the budget was passed, Johnson was dumped — reportedly on a 16-15 vote — from his caucus' leadership post to be replaced by Fresno's Bill Jones. Soft spoken, particularly in contrast to Johnson, Jones immediately pledged to represent Wilson on the Assembly floor. For Johnson, it has to be something of a relief. He has always been more comfortable throwing bombs from the outside then trying to defuse them on the inside.

Gift update, post-ethics reform: Back in the good old days, before the public became so suspicious of those little trinkets bestowed by special interests on public officials, lawmakers were showered with things like tickets to the Academy Awards ceremony, tickets to the Super Bowl, exotic foreign travel, pieces of sculpture, lavish coffee-table books, large baskets of fruit. Today, the situation is notably different. Take, for instance, the following gift, recently sent to each member of the Legislature by an insurance federation and reported on statements filed with the Fair Political Practices Commission: "One jar of gummy worms, value $2.28."

State Senator Art Torres, he of Los Angeles, seems to have a new profession on the side — pitchman for a West Sacramento landscaping service. The senator sent a personal plug to a number of lobbyists back in June, written on stationary that looks remarkably like official Senate letterhead. A return address and phone number on the letterhead were identified by Torres' staff as belonging to his reelection campaign office in Sacramento. But to the untrained eye, the Torres' letter looks like an official message from a California state senator.

The letter itself reads:

"I want to let you know about the ... Landscaping Services. I recently had landscaping work done by them and they were terrific.

"It's always difficult to find reliable, honest and fairly priced contractors of any kind. They proved to me that there are still competent and not over-priced professionals you can count on to do more than just a job. A real caring about the quality of their work and sense of what to do for a particular yard without expensive overruns is their style.

"I recommend them highly. If you need landscaping, sprinklers, patios, beautiful brick or concrete work at very reasonable prices, you should call them and ask for Pancho ..." Torres then provided a West Sacramento phone number.

Torres told *The Sacramento Bee* that he sent the letter to help a small businessman who he has known for "at least a year." A spokesman added that it was a chance for Torres to help a minority-owned business.

There's been a lot of moaning about how tough it is to figure out what's taxed under the new "snack food" sales tax. Ritz is, but soda crackers aren't; individual fruit pies, but not large pies; brownies but not donuts; that sort of thing. State Board of Equalization member Brad Sherman was one of the bigger complainers, saying it would be a nightmare for his staff to figure out what counts and what does. Okay, so its's a little confusing, but the sales tax is already pretty tricky. If they wanted to, they could have gone to just about any grocery store in the state (Grocers, by the way, were among the biggest complainers) and decided everything is Aisle whatever — the one with all the snack foods — would be taxed. Everything in every other aisle wouldn't be. Complaints not withstanding, the grocers of the world long ago figured out the difference between snacks and real food.

"To give up the task of reforming society is to give up one's responsibility as a free man. The task itself is endless, and large parts of it, sometimes the whole of it, must be performed anew by succeeding generations."

— Alan Paton

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ROSTRUM

Regionalism

Regarding Richard Ross' commentary on regionalism (see "Soapbox," *CJ,* July 1991), I am well aware of the suspicion and hostility with which the local voter and most local governments regard "regionalism." As a member of the Southern California Association of Governments (SCAG) executive committee, I have personally observed the conflicting mandates — and deadlines for implementing them — among the Environmental Protection Agency and the California Air Resources Board; the turf battles between the Army Corps of Engineers (wetlands responsibility), California Coastal Commission, CalTrans, the South Coast Air Quality Management District and SCAG.

Mr. Ross, however, fails to address one important issue: Can a regional government solve regional problems without becoming another layer of government and another burden on the taxpayer?

I am attempting to achieve that goal in SCAG. I am hopeful that the SCAG "region" (Los Angeles, Orange, San Bernardino, and Ventura counties) will be apportioned — much like congressional districts — using the following guidelines: each district equal in population, divided along city or county lines *and* united by a community of interest; give effect to minority populations or other population anomalies. City council members in each district will choose one of their peers to represent the district, with the election to take place in the district. There will be one county supervisor for each district, with the exception of Los Angeles, which will have two.

The resulting group will be experienced and will serve voluntarily to solve regional problems. I am hopeful that, over time and with participation and experience, this concept will earn the trust and confidence of local governments, voters and elected officials so that a consensus will make the regional group the only game in town.

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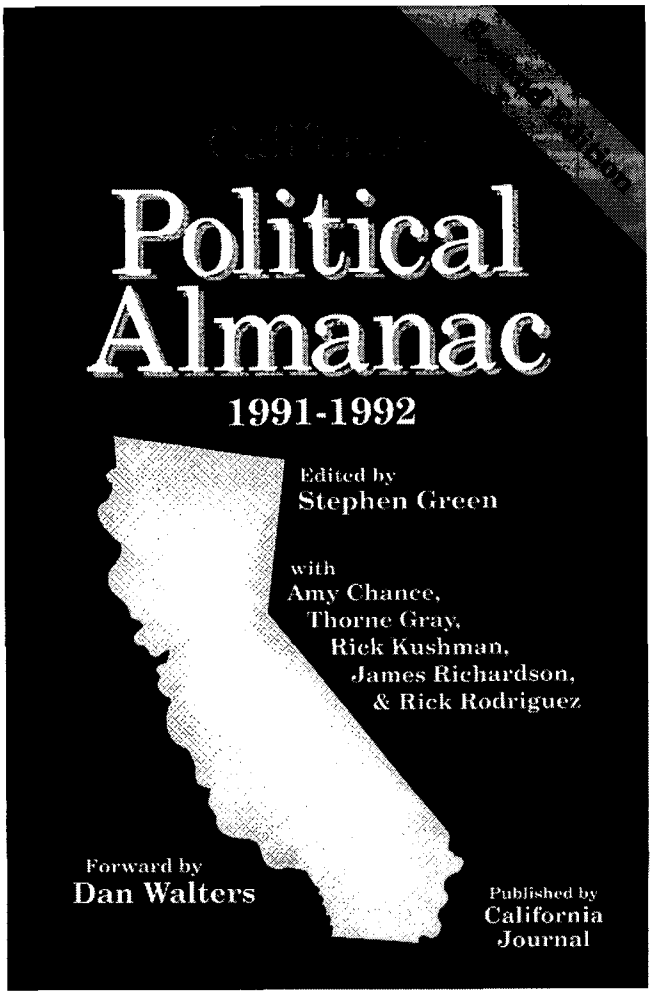

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How tobacco courts California

By Charles Price

For all you anti-smoking fanatics out there, here's the good news: Tobacco is not grown in California.

Here's more good news: Tobacco products are not manufactured in California.

Here's even more stupendous news: Poll after poll after poll on top of survey after survey after survey show that your fellow Californians don't like tobacco smoke. Any tobacco smoke. They are bothered by the fumes, worried about breathing secondhand smoke and adamant that those under the age of 18 be denied access to cigarette vending machines. They want to punish those who sell tobacco to minors and ban all tobacco advertising.

But wait! There's more good news! In 1988 all those don't-tax-me Californians voted to increase cigarette taxes (Proposition 99). Plus, Californians seem more health conscious than their brethren east of the Sierra: Only 20 percent of Golden Staters smoke, compared with 30 percent in the rest of the country.

Yup. California isn't exactly Marlboro Country.

Yet, tobacco use continues to foster a statewide plague of sorts. The American Cancer Society estimates that 42,000 Californians will die from tobacco-related deaths this year. Each day, 300 California teenagers become regular smokers. The annual burden to the state's economy caused by tobacco use is more than $7 billion dollars.

Based on all of this, one might guess that the tobacco industry would have relatively little clout in Sacramento.

Guess again.

With only two exceptions, bills aimed at restricting tobacco use introduced in the current legislative session have either been killed or sidetracked into two-year bills. And it wasn't for lack of trying by anti-tobacco lawmakers. Among some of the more significant tobacco-restriction bills that lost out:

- AB 16 would have prohibited smoking in public places — locations where the public is invited or permitted;
- AB 49 would have banned smoking in state buildings;
- AB 402 would have created the Smoke Free Air Act and banned smoking in public and privately owned buildings open to public;
- AB 452 would have increased

Charles Price is a political science professor at California State University, Chico, and a frequent contributor to California Journal.

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the tax on cigarettes;

- AB 1305 would have limited youth access to cigarette vending machines;
- AB 1667 would required stores selling tobacco to be licensed;
- AB 3865 would have done away with tax deductions for tobacco ads;
- SB 93 also would have prohibited smoking in public places;
- SB 468 would have banned sales of candy, gum or snack foods packaged to resemble any tobacco product;
- SB 1099 would have licensed and regulated tobacco sales by a Tobacco Control Division and a license fee would be required.

While all of these bill languished, another measure (AB 496 by Democratic Assemblyman Dick Floyd) supported by the tobacco lobby and opposed by health groups rumbled through the process. AB 496 lowers the fine for selling to an underage person and requires a certain number of hours of community service. But Floyd's bill also prevents any local government from adopting its own — perhaps more strict — regulations on the subject. It recently passed the Assembly and is pending in the Senate.

This is not to say that the tobacco lobby has been able to quash or derail every piece of legislation. Two bills supported by health groups have cleared their houses of origin and are awaiting action in the other house. AB 1574 would prohibit the Department of Corrections from selling or supplying tobacco products to incarcerated 16- and 17-year-olds, even if parents or guardians consent. And SB 1100 would prohibit giving away those freebie sampler packages of cigarettes or chewing tobacco.

Republican state Senator Marian Bergeson, sponsor of SB 1100, said her bill emerged from the Senate because she was able to shoot holes in tobacco-industry claims about who actually got those free samples (teenagers) and how many free samples were given away (more than 97 million a year).

Still, the fate of Bergeson's bill is instructive of the clout enjoyed by the tobacco industry — despite all polls and evidence. After her bill unanimously passed out of the Senate Judiciary Committee, it went to the floor where tobacco interests lobbied for its referral to the Senate Appropriations Committee. Legislative counsel agreed because the bill had fiscal implications. According to Bergeson, delay is a favorite tobacco tactic when confronted by hostile legislation. Her bill passed Appropriations and was approved on the Senate floor, 27-2.

Unfortunately, there was another house to deal with — the Assembly. Bergeson wanted her bill assigned to the Assembly Health or Judiciary committees, whose members might have been sympathetic. Instead, it was referred to the Governmental Organization Committee. Chairman of that committee is Floyd, a Gardena Democrat. Floyd, an implacable foe of anti-tobacco health groups, is an in-your-face smoker who often paces the Assembly floor puffing away on a mammoth cigar. His committee has long been regarded as a graveyard for many tobacco restriction bills. According to Capitol observers, no anti-smoking bill has passed from the "GO" Committee in years.

Yet Bergeson was able to massage her bill out of Floyd's committee just before the Assembly recessed for its summer vacation. It will proceed to the Ways and Means Committee when the Assembly resumes its schedule in August. But clearly, the Government Organization Committee was Bergeson's biggest hurdle, and sponsors now are optimistic that the bill eventually will pass the Assembly and be signed into law.

Still, the strategy employed on behalf of Bergeson's bill points out the tobacco industry's clout. Bergeson downplayed the fact that her bill was an anti-smoking measure and instead emphasized that it was designed to keep cigarettes out of the hands of teenagers who have easy access to freebies passed out on street corners. Thus, committee members were able to record a pro-kids vote — not an anti-tobacco vote.

The tobacco lobby has had long practice battling anti-tobacco legislation. Health problems (cancer, emphysema, heart disease) connected with tobacco use first surfaced in health and medical journals in the 1940s. And although the industry did (and does) dispute those claims, the U.S. Surgeon General declared cigarette smoking a health hazard in 1964. Despite this declaration, the federal government continues to subsidize tobacco farmers.

The American tobacco industry itself is composed of six large, diversified corporations that produce and sell over 95 percent of domestic tobacco prod-

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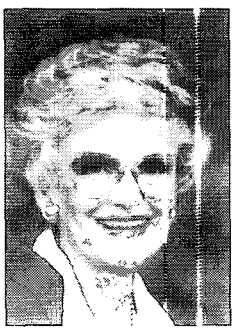
ucts. Each of the six has expanded its corporate empire by acquiring other commercial enterprises, particularly in the foods sector. Philip Morris, the largest U.S. tobacco company, owns — among other ventures — Kraft Foods, Miller Brewing Company, Oscar Mayer and Jello. R.J. Reynolds, the second-largest American tobacco company, owns Nabisco Corporation and their varied food products. However, tobacco sales continue to be the most profitable enterprise for all six companies.


Bergeson

The tobacco industry lobbying isn't limited to lawmakers; it extensively "lobbies" the public as well through advertising — long an industry tradition. In the 1930s and '40s tobacco companies sponsored popular radio programs. Later, they advertised extensively on television. While radio and television tobacco advertising have since been banned, the industry continues to spend considerable sums advertising its products, or itself as a good corporate citizen in newspapers and magazines (including *California Journal*). Women, minorities and the poor are special targets and represent some of the industry's most loyal customers. Tobacco companies also advertise extensively on billboards, at ballparks and on public transit.

Cigarette companies also lobby minorities by sponsoring touring shows of Black and Hispanic artists and contributing to scholarship funds of Black colleges (Philip Morris). R.J. Reynolds' plans to launch a new cigarette designed for urban Blacks was derailed by U.S. Health Secretary Louis Sullivan's angry attack on the proposed new brand. Diane Kaiser, a lobbyist for the Heart Association, noted that the tobacco industry in California also has become very involved in Cinco de Mayo festivals. Additionally, Philip Morris is the official corporate sponsor of the Bill of Rights bicentennial this year, a not-so-subtle hint that the right to smoke stands alongside the right to free speech as guaranteed by the First Amendment.

The tobacco industry always has considered California a critical state because of its booming population, ethnic mix and reputation as a political and social trend-setter. Thus, the industry has been and is willing to spend whatever it takes to maintain the status quo.

In 1978, after repeated failures by anti-tobacco groups to pass legislation to place restrictions on smoking in public buildings and workplaces, health groups decided to bypass the Legislature and place an initiative on the ballot. It qualified as Proposition 5. It was defeated after tobacco companies shelled out $6.5 million to fuel the opposition. Health groups raised $654,000. Proposition 5 lost 47 percent to 53 percent. Two years later, health groups tried a new slightly revised initiative on the same topic, and lost a second time by nearly the same margin as in 1978. Once again, the tobacco industry contributed millions to defeat the measure. Although health groups lost, they came much closer to achieving their anti-smoking goal via the initiative than in the halls of the Legislature.

The next major ballot confrontation between health groups and the tobacco industry occurred in 1988 when, after repeated attempts to increase the tobacco tax in the Legislature (California ranked 43rd among the states in the level of its tobacco tax at that time), health groups succeeded in qualifying a cigarette tax increase initiative (Proposition 99). Health groups argued that by raising the tax on a pack of cigarettes from 10 cents to 35 cents, it would make tobacco more costly and perhaps discourage young people from starting smoking. In addition, money generated would be used to fund a massive and aggressive anti-tobacco advertising campaign.

In one of the most costly initiative campaigns in state history, the tobacco industry spent over $21 million fighting the initiative. And for the first time, they lost — despite a pro-initiative bankroll of less than $2 million.

The anti-Proposition 99 campaign war chest points out why the tobacco industry carries so much political clout when it seems to have such a small constituency.

Money.

The extent to which tobacco has become a key special interest at the Capitol over the past few years is highlighted in a recent study by two University of California researchers, Michael Evans Begay and Stanton Glantz, who examined political spending by the tobacco industry from 1986 to 1990. Their study shows that tobacco's lobbying expenditures at the state level increased nearly 10-fold between 1986 and 1990 ($235,245 to an estimated $2,091,615 in 1990). Its contributions to legislators and constitutional officers nearly doubled, from $318,000 to $582,000. And this does not count the money spent to defeat or pass various initiatives.

The tobacco industry is represented by a who's who of influential contract lobbying firms, including heavyweight SJR Jackson-Barish & Associates (see "The new big daddy," *CJ*, February 1990). Jackson's firm was hired recently to organize opposition to SB 468 by Democratic Senator Mike Thompson. Thompson's bill would have banned candy cigarettes and bubble gum designed to resemble chewing tobacco. Thompson sponsored his bill after discovering that a University of North Carolina study concluded that kids who use imitation tobacco products are four times as likely to take up smoking or chewing tobacco as kids not exposed to them. SB 468 failed to get out of Senate Judiciary.

Floyd

Representatives of various anti-tobacco health groups and lawmakers who carry anti-tobacco legislation agree that even though the tobacco industry's image has been tarnished over the last several decades, tobacco's power in the California Legislature remains formidable. As Heart lobbyist Diane Kaiser put it, "All the tobacco lobbyists have to do is walk into a committee room, and the message is clear to legislators: Don't vote against them."

However, the tide may be beginning to shift. In 1988 health groups pushed through legislation banning smoking on public transit within the state, and Assemblyman Trice Harvey's AB 1574 and Senator Bergeson's SB 1100 are still alive. But health groups have a long way to go before they can match the influence of the tobacco lobby.

Arrayed against the tobacco lobby are the Heart Association, Lung Association, American Cancer Society, Americans for Non-Smokers' Rights, the American Medical Association and the Ameri-

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can Dental Association. Yet health groups remained hamstrung.

Said Theresa Velo of the Cancer Society: "We have no money, no campaign contributions, no 'let me take you out to lunch' options. They're [the tobacco industry] pushing for preemption on every anti-tobacco bill introduced."

Since medical and scientific research is so overwhelmingly against tobacco, the industry's lobbyists tend to focus on the economic consequences of particular bills.

"Tobacco lobbyists don't come up with a lot of hard data," said Velo. On a bill to license stores that sell tobacco, "we had ... people testifying how easy it is for kids to buy cigarettes. The tobacco industry came up and said that mom and pop will be put out of business; there would be too much paper work to get a license."

Tobacco lobbyists and Tobacco Institute officials declined to be interviewed.

The tobacco industry greases its access to political movers and shakers in Sacramento by being a major money-giver. Common Cause ranked them 10th among all state groups in contributions in 1986 and fourth in 1988. As with other lobbies, the tobacco industry provides campaign contributions almost exclusively to incumbent legislators, particularly legislative leaders or members on policy committees dealing with tobacco issues. Begay and Glantz report that the top legislator recipients of tobacco largesse between 1986 and 1990 were Assembly Speaker Willie Brown, $154,750; Senate Republican leader Ken Maddy, $55,000; Senate President pro Tempore David Roberti, $43,578; and Assembly Governmental Organization Committee Chairman Dick Floyd, $26,564. These figures do not include gifts and honoraria, such as Speaker Brown's 1990 trip to Louisville for the Kentucky Derby.

Tobacco always has contributed substantial sums of money to initiative campaigns — and not only to defeat anti-smoking measures. It has also been known to pump money into campaigns where it has no vital, direct interest. In 1990, among other contributions, the tobacco industry gave $151,000 to oppose Big Green (Proposition 128), $455,667 to help a timber-industry sponsored alternative called Big Brown (Proposition 135), $6000 to oppose both term-limit initiatives (Propositions 131 and 140) and $575,000 to promote conservative tax and initiative-reform measures (Propositions 136 and 137). Observers say tobacco got involved with other initiative campaigns to curry favor at the Capitol and to generally be supportive of the business community.

So, anti-smoking fanatics, even though you represent a majority of Californians, don't look for tobacco to fold up shop. As long as campaign costs continue to spiral and regulations limiting the size of campaign contributions given to candidates or propositions go unregulated, the tobacco industry will continue to be a major factor in Capitol politics.

Even if most of California isn't Marlboro Country, the state Capitol is.

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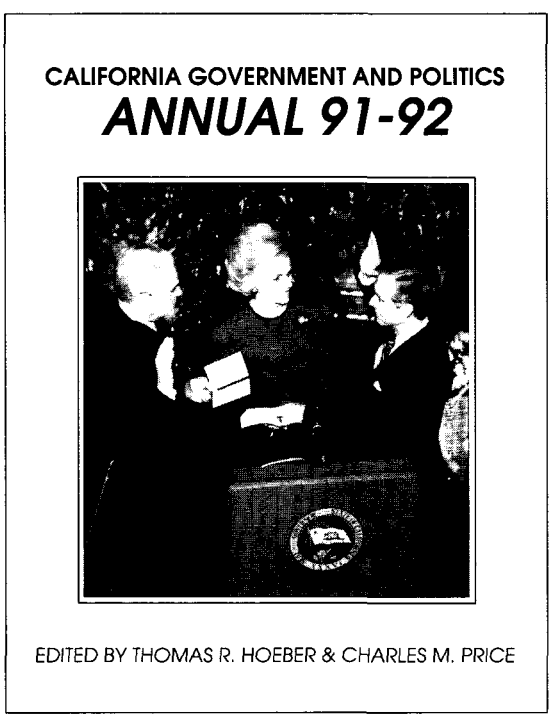

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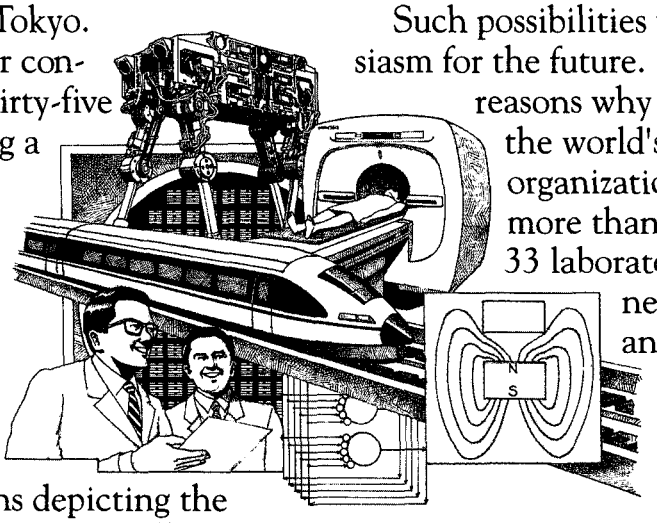

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Photo by Rich Pedroncelli

STUCK IN TRAFFIC

Are trains the cure for clogged arteries?

By Caren Bohan

In 1982, when George Rask started his job as a traffic reporter for San Francisco's KCBS radio, it was easy to predict where the tie-ups would occur on the four major routes he monitored. Rask relied on police scanners and reports from the California Highway Patrol for information, and his station broadcast traffic updates every 30 minutes for three hours in the morning and three hours in the evening.

Today, Rask says, he keeps track of more than 30 roads and arteries in the San Francisco Bay Area, relying on three station-owned aircraft and a network of 1000 commuting listeners to supplement reports from the police and Highway Patrol. And KCBS, like scores of other radio stations throughout the state, now broadcasts traffic updates every 10 minutes, 24 hours a day.

Small wonder. According to the Department of Motor Vehicles, there are nearly 20 million drivers in California, and the Road Information Program, a non-profit group backed by the highway lobby, estimates that the average motorist spends 20 minutes each day sitting in traffic. That means that, collectively, Californians spend 1.2 billion hours per year sitting in traffic, or 10.5 workdays per driver each year. With a 26 percent increase in the number of drivers anticipated in the next decade, daily periods of congestion are expected to lengthen until morning and afternoon rush hours simply merge.

The problems go way beyond the frustrations of the daily commuter. Transportation policy experts say the economic and environmental future of California depends on improving an overburdened and outmoded transportation system that is forcing businesses out of the state, destroying air quality and wearing out freeways faster than the state can afford to build new ones.

"Traffic congestion is one of the most frustrating experiences people go through every day," says Dave Ackerman, transportation lobbyist for the Chamber of Commerce. "If California can't get its act together, we're going to lose manufacturing and retail base."

Business leaders says that if congestion continues, companies will be forced to move to other states because of difficulties in attracting employees to heavily congested areas and in transporting goods from one part of the state to the next.

Jerry Cashman, manager of transportation and commuting for Hewlett Packard, agrees. "Better transportation means better business, especially in California, which has a large high-technology industry," Cashman says. "We're dependent on the mobility of individuals." Cashman says congestion is one of

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the main reasons Hewlett Packard has been expanding to rural areas like Roseville, near Sacramento, and Colorado Springs instead of near its Palo Alto headquarters. But because of difficulty moving employees from one location to another, the company has its own fleet of planes.

While there is broad agreement that something needs to be done before gridlock becomes a permanent way of life in California, there is no consensus on an appropriate remedy. The problem is further complicated by competing bureaucracies within state government and the lack of a single authority to coordinate a hodge-podge of local efforts to improve regional transportation, let alone to develop a coherent statewide transportation plan.

And then, of course, there is the question of money. With both state and local governments facing severe pressure simply to maintain current services, finding the billions of dollars necessary to undertake major new transportation programs may be impossible.

But as it becomes apparent that California cannot pave its way out of its transportation problems, many environmental, business and political leaders are looking to rail as at least a partial solution. Voters, too, appear to be willing to give rail a try. Last year they approved ballot initiatives authorizing nearly $3 billion in bonds to help get a new intrastate rail link under way. The politician spearheading the California "rail renaissance" is Assemblyman Jim Costa, a Democrat from Fresno and a member of the Assembly Transportation Committee. Costa is pushing for a high-speed rail corridor similar to the East Coast metroliner that links Washington, D.C., to New York City and Boston. The assemblyman, whose Central Valley district would be part of the corridor, envisions a rail system that would allow passengers, particularly business people, to travel between major cities like Sacramento, San Francisco, Los Angeles and San Diego in fast, efficient train cars equipped with fax machines, cellular telephones, conference rooms and dining services.

It was a Costa bill that established a Los Angeles-Fresno-San Francisco Bay-Sacramento high-speed rail corridor study group to determine the feasibility of such a system. In a report submitted to the Legislature in June 1990, the group concluded that by the year 2000, the state could have in place a world-class train system capable of traveling up to 200 miles per hour.

"I could see construction for the high-speed rail system beginning by 1997 or 1998," Costa says.

Such a proposal may seem pie-in-the-sky to Californians used to a passenger service system with only one daily run between San Jose and Sacramento and three relatively slow daily runs between Los Angeles and the state capital, but Costa says the system is affordable if it is built in phases.

He argues that faster, more reliable service and modern, comfortable trains will attract riders, which, in turn, will reduce the cost of running the trains and eventually provide money for improvements. As an example, he cites the recent expansion of train service between San Diego and Los Angeles where eight daily trains travel on the 150-mile run. While many Amtrack train lines do not bring in enough money to break even, fares on the San Diego-Los Angeles run bring in about 115 percent of the operating costs.

Costa says he does not expect rail to be fully self-supporting, but he notes that neither is auto travel, which is subsidized through tax dollars spent on freeway construction and improvements. Investing in rail rather than freeway construction, he says, is a "trade-off" that will be worth it in the long run.

The study group estimated that the state would need to invest $7.1 billion to create a rail system comparable to train systems in France, Germany and Japan. The group recommended the state take the following steps toward achieving the system:

- Expand direct train service to Los Angeles and Sacramento from the Bay Area and improve train lines between Fresno and Stockton so that trains can boost their current speeds by 79 miles per hour.
- Build a state-of-the-art high-speed line between Los Angeles and Bakersfield.
- Improve rail access to the San Francisco peninsula from the east and south bays and link Fresno to the south bay line.
- Upgrade rail lines for travel of 125 miles per hour or more.

Once the corridor is in place, the study recommended, the state should look into trackless magnetic levitation technology to enable passenger service of up to 300 miles per hour.

Using money from Proposition 108, one of the rail bond ballot initiatives approved in June 1990, the state plans to purchase a set of custom designed "California Cars." In addition to fax machines and cellular telephones, the California Cars would offer dining service with regional specialties, health food and Napa Valley wines.

Bonds authorized by both Propositions 108 and 116 also would be used to help pay for expanded service on several existing rail lines in the corridor and to provide matching grants for a series of local urban and commuter rail projects throughout the state. These include expansion of Bay Area Rapid Transit subways, San Diego Trolley and San Jose Trolley; the construction of two new commuter rail lines in the Los Angeles basin; and a "people mover" elevated guideway system in Orange County.

Beyond building more rail lines, the 21st Century transportation system Costa envisions for California would integrate four modes of travel: rail, automobile, bus and airplane. This would mean linking urban rail, commuter rail and high-speed rail with connections to parking lots, bus stations and major airports.

Costa has also suggested a coordinated fare system for the state, aimed at promoting tourism by allowing the purchase of California rail passes similar to Eurorail passes widely used by Americans in Europe. He sees the rail passes as a means, not only of attracting Californians to rail transportation, but also of promoting tourism.

Costa's ideas for improving transportation have gained support from lobby groups ranging from the Planning and Conservation League to the California Chamber of Commerce.

Hewlett Packard's Cashman argues that a high-speed train could compete with commercial airplanes for intrastate business travel. Most flights require business people to stay overnight at their destination because they leave in the afternoon and evening. Trains with overnight and morning commute schedules would eliminate the need for this expense. Airplane travel has also become prohibitive for business because of the time spent getting to and from airports on heavily congested freeways. A high-speed rail system accessible by public transit could actually save on travel time, Cashman says.

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But not everyone is convinced rail is the solution to California's transportation problems. Joseph Pitti, a California history professor at California State University, Sacramento, and Melvin Webber, professor of urban planning at the University of California, Berkeley, say that even the most modern train system will not lure Californians away from their cars.

"As a society, we're totally committed to the automobile. To change things will require a radical shift in our mentality," Pitti maintains. He notes that much of the impetus for rail expansion in California came about during the 1970s, when the oil shortage drove up gasoline prices and resulted in long lines at the service stations. "As gas prices remain reasonable, people will not take the issue of railroads too seriously. They're aware of the problems, but they won't do anything about it until it hits their pocketbooks."

Webber is skeptical of rail proponents like Costa who point to the success of European rail as an example of what can be done in the United States. "They're forgetting one major fact: Europeans like public transportation; Americans don't. What's going to happen is we will build all of these new railroads and the trains will be empty," Webber says.

Webber labels the movement for a rail renaissance as a misguided "nostalgia for railroads" and he attributes it to childhood memories of electric train sets. Even putting aside California's love affair with the automobile, Webber believes the layout and geography of the state make rail impractical. He says most cities are too far apart to generate ridership for intercity rail and too spread out to support urban mass transit.

Ackerman of the Chamber of Commerce agrees that unlike many East Coast cities, where more condensed patterns of development are such that many commuters travel in the same direction, the "urban sprawl" that characterizes many Californian cities makes it difficult to build a transit system that will accommodate a large number of commuters.

For example, the Metro Blue Line commuter rail between Long Beach and Los Angeles, which began operating last summer, has attracted a substantial ridership. But Ackerman says the number of commuters it serves is "minuscule" compared to those who are not using it.

Unlike Webber, however, Ackerman does not see urban sprawl as a reason that mass transit is unfeasible in California. He says the living and commuting patterns that differentiate Californians from their East Coast cousins simply add weight to the idea that the state needs a transportation system that will integrate both railroad and highway travel.

Despite voter approval for the bonds to finance all the ambitious rail-system improvements, getting the bond money flowing into new transportation projects could be difficult. Due to a backlog in other voter-approved bonds waiting to be sold, state Treasurer Kathleen Brown at one point said that California may only be able to issue $585 million of the $2.9 billion in transportation bonds before the end of the next fiscal year in June 1992. The Legislature in the budget decided that it could afford to finance up to $1.3 billion

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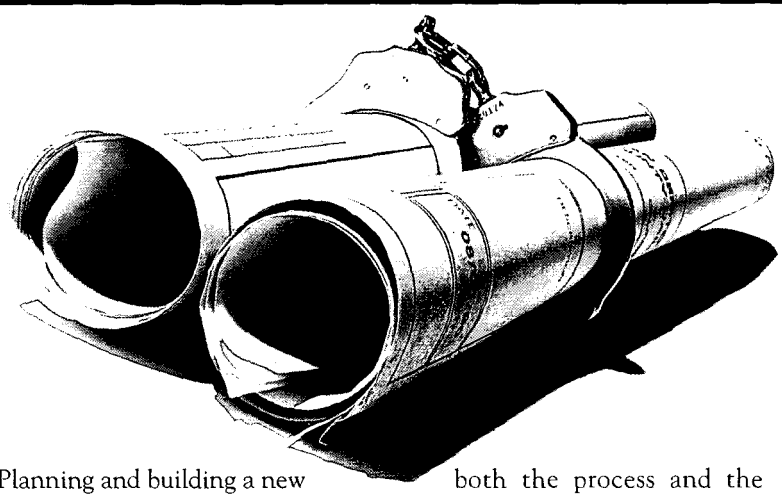

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in bonds in the current fiscal year.

Mariana Mejia, spokeswoman for the state Department of Transportation (CalTrans), says state officials have not yet decided which transportation projects will have to be held up because of the bond backlog. She says CalTrans will try to mitigate delays by funding projects under construction or ready for construction before projects still in the planning stages.

Costa is concerned that delays in the issuance of the bonds will hinder progress on the first phase of the rail plan to the point where voters may be reluctant to support rail bond proposals slated for the ballot in 1992 and 1994.

"If some of these projects have to be cut, what are we going to have to show the voters to convince them to support the next bond issues?" Costa asks.

Aside from the money problems, one of the major obstacles to establishing the transportation system Costa envisions is the difficulty in coordinating the various local projects.

CalTrans has traditionally existed as a highway department and it was only recently that its Division of Rail was created. Most planning on rail transportation has taken place at the local level with little thought given to an overall state plan.

Propositions 116 and 108 are examples of the way transportation planning in California takes place. Under Proposition 116, CalTrans compiled a State Transportation Improvement Plan. The plan allotted proportional amounts of money to each region and allowed the local districts to decide how to spend it. So instead of a list of projects organized according to a set of statewide goals, the plan is a list of projects proposed by the local districts.

The result of such planning is that, even between cities as close as San Jose and San Francisco, there is no linkage between urban transportation systems such as BART and the San Jose Trolley. Another problem created by the lack of coordination is that some regional transportation systems end up competing with one another.

Bay Area transit planning is a prime example. The BART system connecting cities in the East Bay to San Francisco and Daly City is slated for expansion. The expansion of BART to the San Francisco Airport is one of what many perceive as a critical aspect of the project. But local officials and planners disagree on whether the line should run directly into the airport or to a station one mile away.

Airport Director Louis Turpen is worried that a transit station at the airport will cut his $33 million in parking revenues, and he is pushing to have the remote station built with a "people mover" connecting it to the airport. The Metropolitan Transportation Commission and the San Mateo County Supervisors, who oversee the county where the transit would be built, worry that the airport station would not serve enough people. And independent San Francisco state Senator Quentin Kopp argues that passengers will not ride BART to the airport if they have to transfer to get there.

Meanwhile, the MTC has also been looking into the possibility of extending CalTrain running from San Jose along the west bay peninsula up to downtown San Francisco and connecting it to the airport. But if plans for the BART expansion go through, it may well mean the demise of CalTrain, which now relies on subsidy from the planning and development fund.

At the same time the Metropolitan Transportation Commission is looking into ways of expanding BART on the west peninsula, it is also talking about running a railroad tube through the Bay to connect the Oakland BART to CalTrain. On top of that, BART officials made a vague commitment to extend service to both the Oakland and San Francisco airports but they do not have the money to do both.

In the midst of the controversy over the San Francisco Airport, airport manager Jason Yuen has joked that the way to raise money may be to sell BART to the Japanese.

As a solution to the lack of coordination in state transportation, Costa has introduced a bill to create a separate Department of Transportation within the state Business, Transportation and Housing Agency. But Robert Best, former Governor George Deukmejian's director of CalTrans, defended the agency at a meeting of the Assembly Transportation Committee in March. He blamed the problems on the "paucity of proposals" submitted to CalTrans by local agencies and on the difficulty in getting cooperation from Amtrak with rail projects on its right of ways.

The subject of the meeting where Best talked about the problems was called: "Is California on Track with Rail?" Costa, as it turned out, was late for the meeting because his plane from Fresno to Sacramento was delayed.

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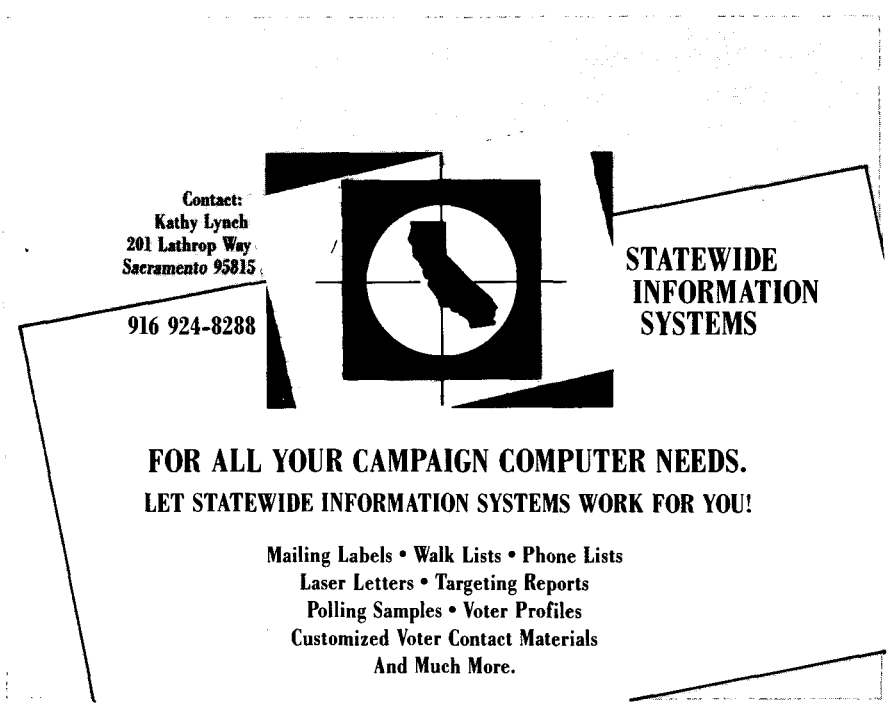

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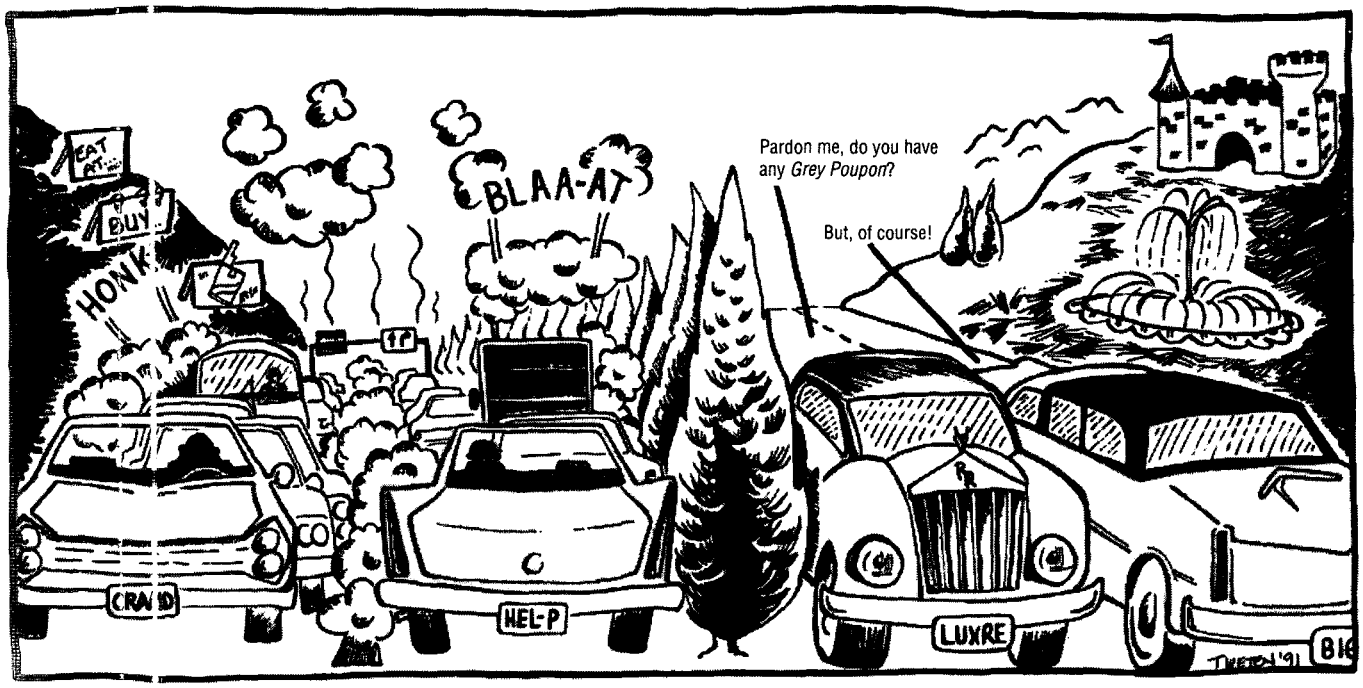

A not-so-freeway future?

For whom the road tolls

By Debora Vrana

In 1991 California, it is the business of a fiscally strapped state and nearly broke counties to find innovative ways to pay for things such as roads. And what could be more modern than allowing private companies to build and pay for new transportation projects — such as toll roads — that can be operated by the state in 35 years?

A native may have trouble saying the words "California" and "toll road" in the same breath. But many Californians believe toll roads paid for by the private sector can answer two of the state's biggest problems: transit gridlock and fiscal shortfalls. With state transportation funds as scarce as an open stretch of Orange County freeway and the numbers of needed projects multiplying almost as fast as the state's growth rate, some beleaguered state transit officials envision a public-private transportation system as utopia.

However, a historic $2.5-billion proposal for demonstration toll roads — one in the north and three in the south — has attracted enough scorn, opposition and downright hostility in the last six months to wreck the projects.

Critics angrily contend that the roads are the result of "secret deals" negotiated late last year between the state and developers. They say the roads could create a two-tiered transit system with the affluent motoring along well-kept tollways and the poor bumping along from pothole to pothole. Opponents, who include environmentalists and key legislators, say the toll roads will encourage unwanted growth, exacerbate air-quality problems and siphon local funds from needed areas. Legislation was recently introduced to cut off a key toll-road funding source in an attempt to kill the projects.

The controversy raging around the toll roads is not simply a battle over 116 miles of new asphalt. This conflict may demonstrate whether allowing privatization of infrastructure will work. More important, the toll-road debate could help clarify California's transportation priorities and point to the need for a long-term state transportation plan.

"It's going to be a very bloody fight," said Mark Evanoff of Greenbelt Alliance, a San Francisco environmental group working to stop a Northern California toll road. "Whatever happens is going to set the destiny for future transportation development in California," he said.

The toll roads were part of former Governor George Deukmejian's $18.5-billion gas-tax package in 1989, but the idea really germinated at a place called The Reason Foundation, a libertarian-oriented think tank in Santa Monica. California transit officials were attracted to privately financed toll roads (not to be confused with three taxpayer-built toll roads now under construction in Orange County) after reading Libertarian Robert Poole's 1988 Reason Foundation transportation study. Poole proposed modern "Blade Runner"-like roads with toll booths that could read

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special toll microchips on cars, much like electronic grocery counters scan prices on canned foods. Auto occupants would then receive a monthly "toll road bill" not unlike a water bill. Poole's study also proposed a sliding toll price scale, including charging higher tolls at peak congestion hours.

Despite all the high-tech hoopla, the most radical aspect of the report was the use of private capital to pay for the roads. Privatization simply means transferring traditionally public projects to the private sector. It is the cornerstone of Reason Foundation philosophy and is attracting attention throughout the country at local and federal levels, especially in areas such as education. Poole's public-private transportation utopia was a vision for California officials anxious to find a way to pay for projects shelved for lack of money.

In 1989 only 19 legislators opposed legislation allowing the California Department of Transportation, CalTrans, to negotiate with private firms to build roads. The bill was introduced by Republican Assemblyman Bill Baker of Danville, who refused to be interviewed for this article. The bill required three things: at least one project in the south, one in the north and that a free road alternative be available to any proposed toll road. The bill allows the state to own the infrastructure and assume legal risks but lease the road and property to developers for 30 years. Developers were expected to fund the projects from the tolls.

Four contracts were approved under terms of the legislation:

- An 11.5-mile toll road extension of Highway 57 in Orange County that will use the Santa Ana River Channel. The $700 million road is to be build by the National Toll Road Company, a consortium that includes the Dallas-based Perot Group.
- A 10-mile toll road in San Diego near the Mexican border that is expected to cost $400 million and be built by California Transportation Ventures.
- A 10-mile toll road in the existing right-of-way on Highway 91 in Orange County to cost $88.3 million and be built by the California Private Transportation Corporation.
- An 85-mile toll road, known as the Mid-State Toll Road, to be built in Solano, Contra Costa and Alameda counties. Expected to cost $1.2 billion and to be built by the California Toll Road Company.

All was running smoothly for the toll roads until January 1991, when the contents of contracts were released. While the size and placement of the roads drew sparks, a fire storm of criticism erupted over the disclosure that developers planned to ask for state, local and even federal funds to help pay for the roads.

"A bunch of people came to us and said, 'We have a free lunch to offer you.' Now we find out the free lunch wasn't so free," said Democratic Assemblywoman Delaine Eastin of Fremont, who has vowed to support a bill designed to halt the toll roads. "These roads allow the general revenues of the state to build a highway for rich people."

Eastin's sentiments are echoed by many legislators and have prompted a bill designed to prohibit the use of public funds. Introduced by state Senator Bill Lockyer, a Hayward Democrat, the bill (SB 144) cleared a big hurdle in March when it was passed by the 40-member Senate with a 26-2 vote. Lockyer has said he hopes the legislation will kill the Mid-State Toll Road, which runs through his district.

Angry environmentalists, slow-growth advocates and legislators charge that public funds were never intended to even partially fund the roads and that they were deceived by CalTrans. Publications to the left of the political spectrum have had a field day with headlines such as "Highway Robbery" and "Monster Toll Road Threatens East Bay Green Belt." The *Los Angeles Times* ran an editorial titled "Toll roads can go off course — wholly private projects should not benefit from public funds."

"I feel we were deceived on AB 680," said Concord state Senator Dan Boatwright, a Democrat and a co-author of the Lockyer bill. "CalTrans sold out on these contracts. It far exceeds any authority they have. I'm never going to trust CalTrans again."

CalTrans officials say they are getting a bad rap from disgruntled legislators who do not understand the difficulty of negotiating contracts. Officials say the contracts are solid and point out that the 800-page documents were looked at by Price Waterhouse, an outside consultant.

"Fundamentally these are good agreements that we believe are balanced and yet still attractive to the private sector," said Carl Williams, CalTrans director. "These projects still have a good chance of being followed through on, although Lockyer's activities are making the projects appear more risky."

Williams is a strong supporter of privatization and believes that the federal government should allow states more flexibility.

"State governments should be allowed to put together any combination of funds for a facility," said Williams. "Let us use private capital in a designer concept."

Toll-road supporters charge that the legislation to prohibit public funds is a bad bill because it usurps local control. Many developers are concerned that the roads are mistakenly being perceived as "private roads" supplemented by public funds. They argue instead that the toll roads are not solely private roads, but public roads, "at all times ... owned by the state," and deserve public funds.

"These are public-private partnerships, not truly private projects," said Poole of the Reason Foundation. "Nowhere in AB 680 does it say that no public funds would be used. No one was under any illusions that these were just private projects."

But legislators contend that during committee discussion of AB 680 there were verbal reassurances from CalTrans that no public funds would be involved.

"They lied to us," said Lockyer. "I think they should keep the promise they made and keep public funds out. We all know that local governments have a susceptibility to certain lobbying interests."

Those in the local transportation trenches are gearing up for a bitter fight. Still uncertain about the future of Lockyer's bill (which some predict Governor Pete Wilson will veto even if the Legislature passes it), several local transit districts and governments have been approached about contributing to the planned roads.

"With the state of our county budget they might as well hold their breaths," said Solano County Supervisor Sam Caddle. "The toll road could be of some economic benefit but it does raise some deep concerns. When we were first approached by Parsons, we listened and were lukewarm to the idea. I guess they thought we'd be all enthused and write glowing resolutions."

While the Contra Costa Transporta-

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tion Authority has voted not to authorize local funds for the Mid-State Toll Road, the Orange County Transportation Commission has approved $300,000 to help with environmental impact studies on toll roads in Southern California.

"This is a local-control issue," said Geoffrey Yarema, an attorney with Nossaman, Guthner, Knox and Elliott — a law firm working on the San Diego toll road. "Lockyer is telling Orange County and Santa Ana they can't have their projects no matter how much people want them. These toll roads did not come out of the air. The Santa Ana road has been discussed for more than 20 years. These are projects that the state would like to do but didn't have the money."

Big business does have the money. And one of the toll road critics' biggest beefs is that developers are allowed to make even more money on the toll roads.

According to the contracts, developers can make a 21.2 percent profit on the Mid-State Toll Road — an amount well above profit rates set for other public-private ventures, such as utilities. The profits on other toll roads range from 20.2 percent to 17 percent. Opponents of the toll roads say developers are guaranteed profits and that the roads should be subject to regulations by the Public Utilities Commission and that public hearings should have been held before profit rates were set. But developers contend that profits aren't guaranteed in the contracts and that the 21.2 percent figure is not a promise, but a cap.

"Even in our best case scenarios, we don't reach that rate of return," said Dennis Parker, manager of project development with Pasadena-based Parsons Municipal Services — a firm involved with the Mid-State Toll Road. "These projects are risky. All of sudden your project takes a dive and then you just sit. For a businessman that is deadly. Sitting still costs money."

But opponents dispute the developers' claims.

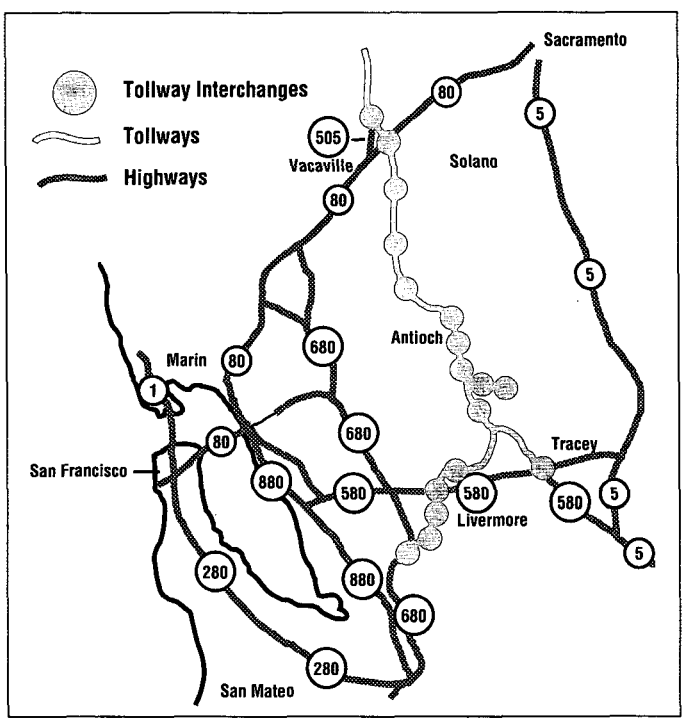
"They are lying like dogs," said Boatwright. "These people are trying to sell us burnt toast."

Developers continually reiterate how risky the projects are. In the contracts, CalTrans officials said they promised broad rights to developers in order to make up for the risks. The contracts include:

- Help from CalTrans if local governments attempt to build a road competing with the toll road projects. Williams and CalTrans would "use its best efforts to dissuade local governments" from building competing roads.
- Developers are granted the "air space" rights to the toll roads for 99 years. This allows developers to lease land along the roads to commercial companies. Critics say giving air space rights to developers will encourage growth and bring consumers to shop along the toll road. Developers dispute this scenario, saying that for every mall built along the road an off-ramp and toll booths would have to be built, which is too costly to be feasible.

"There's this misconception that H.R. Perot is going to laugh all the way to the bank and no one will benefit from these projects," said Poole. "That simply isn't true."

Some officials said the toll-road conflict is over more than public-funds-for-private-profit and charged that there is a "Wild West" mentality among California's public officials who have a gut opposition to paid roads. Some predict that toll roads, which are accepted on the East Coast and throughout the Midwest, will not work in California.



"There is a longer history of freeways in California, with the emphasis on 'free,'" said Kenneth Olson, vice president for public finance at the investment banking firm of Goldman Sachs — a firm involved in the Mid-State Toll Road and a $285 million Dulles Airport Toll Road extension in Virginia. He said the Virginia toll road is being built by a consortium of private firms and is not using public funds.

But historically, some of the roads that make up California's current freeway system were once toll roads. In 1863 California had more than 80 toll roads (mostly in the mining counties), in addition to 80 toll bridges and 111 ferries, according to an 1863 Sacramento newspaper. In subsequent years, the state bought many of these roads to supplement California's road system. Acquisitions included the Lake Tahoe Toll Road, the Muir Woods Toll Road and the Sonora-Mono Wagon Road, all of which were bought by the state, improved and made free roads. In late 1934 the state paid $25,000 for the 31-mile-long Death Valley Toll Road and eliminated the $2-per-car toll.

Today, the privately built and operated 17-mile drive in Monterey is the only toll road in California.

Highway building in California and the rest of the country has been stalled for many years. Since inauguration of the 1956 Federal Interstate Program, the United States has maintained a tradition of relying on public funds to build the network of roads connecting the country. But the federal highway program expires in September 1991, and many say that new alternatives must be considered. Some point to the success of privatization in Europe, where private firms have built more than 5000 miles of roads through Spain, Italy and France. California currently has $50 billion to $80 billion in highway needs alone in the next nine years.

"I think that with the total demand for infrastructure is so great, especially

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in fast growing areas like California, to provide capital you're going to have to tap the private sector," said Olsen. "We're in an interesting era where we have to find out a way to make that work."

At this point, many involved in the toll roads say it is unlikely that a way can be found to make all the projects work. Some sources predict the legislation and possible lawsuits expected to be filed against the Mid-State Toll Road will effectively kill the project. At this time it is unclear what will happen to the other three toll roads.

Some legislators are concerned in general about the privatization concept and say that there are some things — such as roads — that are a government responsibility. And some are concerned that with these toll roads CalTrans took on a bigger role than it should. Some legislators feel that this controversy points to the need for an integrated, long-term state transportation policy.

The state currently has a general transportation plan, according to Williams, but officials are watching a federal proposal to allow multi-layer plans that would be formulated at the urban level. The state would be in charge of services at the intra-urban level.

"I really do think that California needs a long-term state transportation plan," said Assemblywoman Eastin. "We need to stop thinking that we can get something for nothing. The toll-road plan was as if Harold Hill had arrived in the Legislature and promised us we'd have a fine band. Now we find out that we can't have 76 trombones and you can't get things for free."

Many believe that privatization of infrastructure is the wave of the future. Some developers say that business not only can finance and build roads better than local governments, it can assess needs and priorities more logically.

"We're talking about an important power that has traditionally belonged to local governments," said Parker of Parsons. "Business is perfectly capable of assessing, prioritizing and doing. The political process gets so bogged down and enmeshed that nothing gets done. Maybe it should just provide a forum for discussion."

The current toll-road controversy is a nightmare for many developers who feared such a scenario when the toll roads were being developed. But some developers said they plan to be in this for the long haul and that the projects may die and be resurrected many times before the conflict is over. Both developers and environmentalists said they were considering filing lawsuits against either the state or developers over the toll roads. To date, no such suits have been filed.

"At the end of the day we come to the conclusion that it's a business proposition," said Parker. "It's not an emotional or political issue, it's a business proposition and as long as it makes some sense we'll continue the course."

Toll road projects on tap

The four state-approved projects and the participants are as follows:

- **Toll Road on Highway 57 in Orange County:**

An 11.5-mile toll road extension of Highway 57 in Orange County from Interstate 5 near Anaheim Stadium to Interstate 405, connecting to Highway 73 near John Wayne Airport. The project will utilize the Santa Ana River channel.

Estimated Cost: $700 million
Completion Date: 1997
Allowed rate of return: 20.2 percent
Participants: National Toll Road Authority, The Perot Group, Greiner Engineering, Amtech Systems Corporation, The First Boston Corporation, Wilbur Smith & Associates, Putnam, Hayes & Bartless Traffic Consultants, Kiewit Pacific Company and the law firm of Nossaman, Guthner Knox & Elliot.

- **Highway 125 San Diego County:**

A 10-mile limited acess toll road in San Diego from Highway 905, Otay Mesa Road near the Mexican border to Highway 54.

Estimated Cost: $400 million
Completion Date: 1995
Allowed Rate of Return: 18 percent
Participants: California Transportation Ventures, which includes Parsons Brinckerhoff Development Group, Fluor Daniel, GIE Transroute, France and Prudential Securities.

- **Highway 91 in Orange County:**

The construction of a 10-mile four lane toll/HOV road in the existing right-of-way of Highway 91 in Orange county from the Riverside County line to Highway 55.

Estimated Cost: $88.3 million
Completion Date: 1993
Rate of Return: 17 percent
Participants: The California Private Transportation Corporation. The team includes, CRSS Commercial Group, Citicorp, Howard Needles Tammen & Bergendoff, Granite Construction Company, The John Meyer Company, Vollmer Associates, Woodward-Clyde Consultants, McDermott, Will & Emery and Putnam, Hayes & Bartlett.

- **Mid-State Toll Road in Solano, Contra Costa, Alameda counties:**

An 85-mile toll road that will link Interstates 80 and 505 in Vacaville to Interstate 680 near Fremont in the East Bay.

Estimated Cost: $1.2 billion
Completion Date: 1997
Rate of Return: 21.2 percent
Participants: California Toll Road Company, L.P. (possibly, Parsons)

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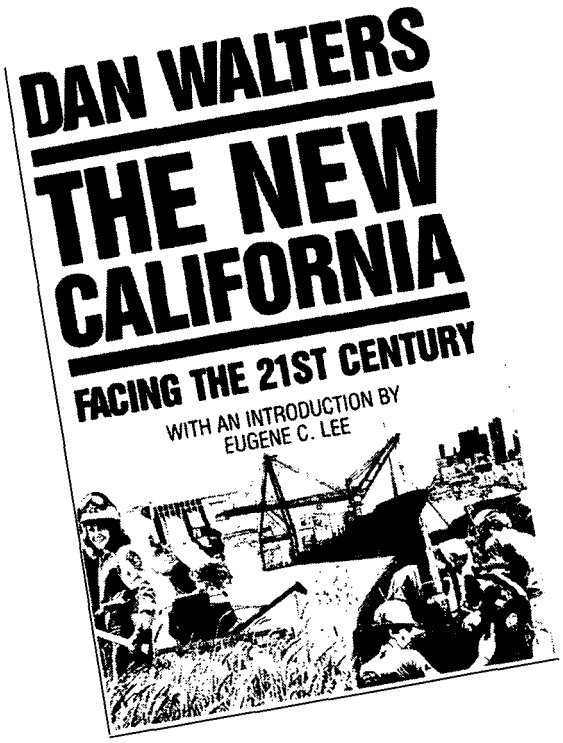

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with an introduction
by Eugene C. Lee

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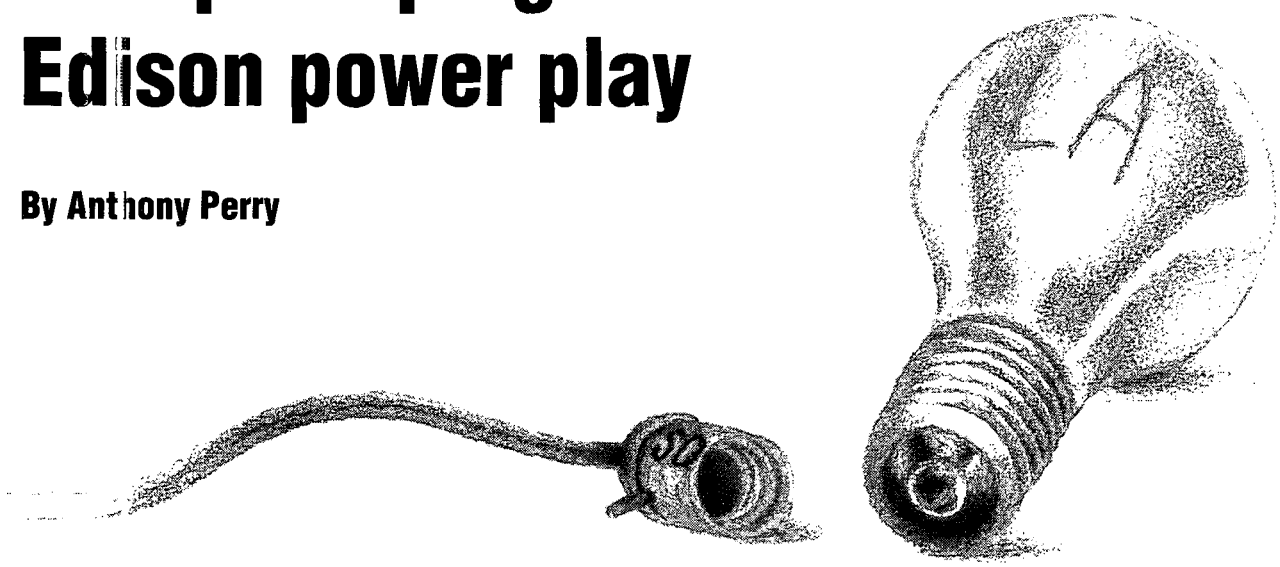
PUC pulls plug on Edison power play

By Anthony Perry



San Diego Mayor Maureen O'Connor never hesitated when the corporate invader from Los Angeles began banging on the city's front door and peering in the windows.

"I felt very strongly there was only one thing we could do," she said, "and that was to fight."

And fight she and other San Diegans did: a furious legal, political and civic battle that lasted two-and-one-half years and spread from Los Angeles to San Diego to Washington to Sacramento. It ended May 8, 1991, in San Francisco with a unanimous and stunning victory for the sunny city at the bottom of the state.

The clash had pitted San Diego — a city known more for its zoo and its balmy weather than for its political cohesiveness or clout — against Southern California Edison, the utility company/political juggernaut known as a master of going around, over or through anyone who stands in its way.

The object of Edison's expansionistic desire had been San Diego Gas and Electric Company (see "Power plays," *CJ*, February, 1990). By swallowing SDG&E, the Rosemead-based Edison would have become the nation's largest investor-owned utility. When Edison finally wrestled the SDG&E board of directors into accepting its stock-swap merger offer in November 1988, there were few who believed the deal could be blocked, despite San Diego's outrage over losing its hometown utility.

It was a fight that San Diegans, always convinced of their own virtue, preferred to characterize as David versus Goliath.

O'Connor's strategy was twofold: keep local passions against the merger revved up, and take a direct hand in the political and legal maneuvering in the two capital cities — Sacramento and Washington.

Through her to-the-ramparts rhetoric, O'Connor helped maintain a political constituency for the idea of a historically tight-fisted City Council spending millions of dollars on anti-merger lawyers and consultants. This at a time when other city services were being cut back. At one point, she went so far as to liken San Diego's desire to stay free of Los Angeles to the struggle of liberty-loving Lithuanians to break away from the Soviet Union.

When the fight was over, mighty Edison had been humbled, San Diego had scored a rare victory over Los Angeles, and the attitude of California government toward big utility companies had been decisively changed, perhaps for decades.

In the beginning, however, most San Diegans viewed the pending brawl less than optimistically. The San Diego city attorney warned that a fight could be enormously costly and he rated San Diego's chances of prevailing at less than one in three.

The *San Diego Tribune*, in an editorial, called the merger a *fait accompli* and urged San Diego officials to accept reality and work to strike the best deal possible on matters such as how many local jobs would be lost. *San Diego Union* financial writer Charles Ross, who has covered utility matters for more than a decade, said he initially figured that Edison's legal and political muscle made approval at the California Public Utilities Commission a slam dunk.

At behest of Edison chairman Howard Allen, California

Anthony Perry is a columnist for the Los Angeles Times, *San Diego County edition.*

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Democratic U.S. Senator Alan Cranston wrote to O'Connor, suggesting that she meet with Allen ("He is a fine person, honest ...") and hinting broadly that Allen and Edison could be quite helpful if O'Connor wanted to run for statewide office.

O'Connor, whose stubborn streak is the stuff of local legend, would have none of it.

"I'm a firm believer in lost causes," she said recently.

She refused to meet with Allen (or any other Edison executive) and set about cobbling together a coalition of business, labor, environmental and political leaders to oppose the coalition.

"Edison had never had to fight in the streets," O'Connor said. "Edison always preferred the closed doors of the board room. This is the first time they ever had to fight in the light. I knew if we fought in the public domain and kept the light on them, we'd prevail."

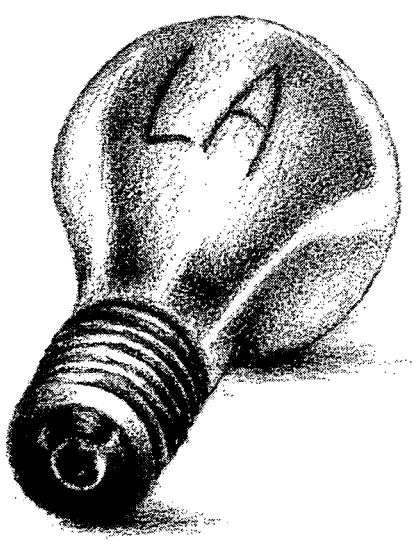
Michael Peevey, who was Edison's point-man in San Diego and has since been named president of the company, said that O'Connor's intransigence was the first indication that San Diego would be a much tougher nut to crack than he expected.

"She was there from the start, unwavering," Peevey said. "She was the catalyst of the opposition."

No single general alone wins a war, and indeed San Diego's merger would mean higher utility rates for consumers, loss of 1000 or more local jobs, greater air pollution and a galling sense of being merely a corporate colony of dread Los Angeles.

Among those carrying San Diego's banner: Chamber of Commerce President Lee Grissom, savings-and-loan magnate Gordon Luce, consumer watchdog Michael Shames and the financial and editorial pages of the *San Diego Union*.

Still, it was O'Connor who took the lead.



"She was the key figure in defeating the merger," said Ross, whose newspaper, the *Union,* and its sister publication, the *Tribune,* did 350 stories, columns and editorials on the merger controversy over a three-year period.

In early 1989 O'Connor accompanied Assistant City Attorney Curtis Fitzpatrick to Washington to interview law firms to take San Diego's fight to the PUC's federal cousin — the Federal Energy Regulatory Commission (FERC). She asked advice from an old friend, U.S. Senator Ted Kennedy, a Massachusetts Democrat, on which firm to hire. A decade earlier O'Connor and her sister, Colleen, a college history professor, had taken out full-page newspaper ads urging Kennedy to run for president.

Kennedy said there was only one firm to consider, Arent, Fox, Lintner, Plotkin & Kahn. He called one of the firm's partners, former U.S. Senator John C. Culver, and said he was sending a friend over to see him.

Within a fortnight, San Diego hired Arent, Fox, et al. Later, despite tacit support for the merger from the U.S. Department of Justice, the firm helped convince a FERC administrative law judge to oppose the merger as harmful to consumers and the environment — the first major indication that Edison could actually be beaten.

As the city's legal and consultant bills mounted, so did the difficulty of maintaining a majority on the always-fractious City Council.

Every twist at FERC or the state Public Utilities Commission ratcheted the city's legal bills higher, finally hitting $6.2 million. By comparison, Edison's legal and consulting bills are estimated conservatively at $100 million.

"Sometimes it got very bitter and acrimonious [when the council discussed spending more money in closed session]," O'Connor said. Fitzpatrick remembers the sessions as "attitudinally hostile."

Edison, no slouch at influencing local officials, had launched a strategy meant to win hearts and minds in San Diego. An advertising blitz was undertaken, pro-merger groups were organized, grants were made to minority and social service groups (which, in turn, lobbied council members on Edison's behalf), suburban cities were urged not to be swayed by San Diego.

Peevey suggested to reporters that O'Connor was using the merger issue to shore up her sagging local political support. (Peevey's contention is not altogether borne out by polls, which have consistently shown O'Connor with a high approval rating, reaching 72 percent just before the PUC victory).

When a plan was placed on the ballot to increase the San Diego City Council from eight to 10 seats, which could have diluted anti-merger sentiment, Edison contributed $8000 to the campaign. It lost.

Near Christmas 1989, O'Connor met with then state Attorney General John Van de Kamp to urge him to oppose the merger before the PUC. At that point, Van de Kamp recently said, his office had no plans to take a stand.

"It's hard to tell what we would have done if we hadn't been stimulated by the mayor," said Van de Kamp.

Within months, Van de Kamp's office formally opposed the merger as anti-competitive and liable to lead to higher utility bills throughout Southern California. O'Connor reciprocated by endorsing Van de Kamp in his bid for the Democratic nomination for governor; it was only the second time she had ever endorsed a candidate for partisan office.

So potent had the merger become as a political issue in San Diego that United Press International began a political roundup story just prior to the June 1990 primary with the assertion: "Political candidates who want to bag votes in California's second-largest city need only utter four words — 'I'm against the merger.' "

When Van de Kamp lost to Dianne Feinstein, the former San Francisco mayor came to San Diego to meet with O'Connor. The meeting between the doctor's daughter from San Francisco and the prizefighter's daughter from San Diego did not go well.

There would be no opposition to the Edison-SDG&E merger from the Democratic nominee for governor. One reason may have been that the political consultant hired by Feinstein to handle her campaign in San Diego was also on the Edison payroll.

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In hindsight, Feinstein's refusal proved fortuitous; it spared O'Connor from having to endorse Feinstein and thereby oppose former San Diego Mayor Pete Wilson, the Republican nominee.

O'Connor, a nominal Democrat, stayed neutral on the governor's race.

Wilson, needing San Diego votes to offset Feinstein's strength in Northern California, stayed neutral on the merger and refused all contributions from Edison or its employees. This despite the fact, according to a former Wilson aide, that Edison boss Allen was in a select group of powerful Californians who could walk into Wilson's Senate office without an appointment whenever he visited Washington.

If O'Connor was successful in playing gubernatorial politics, she was largely stymied in the Legislature in Sacramento, with one major and, as it turned out, crucial exception.

Edison managed to kill several anti-merger bills, either in committee, on a full floor vote or though veto by former Governor George Deukmejian. Not for nothing does the firm have a cadre of lobbyists and spend lavishly on contributions to legislative candidates, ballot measures and other goodies such as golfing green fees and sports tickets for legislators.

Despite Edison's lobbying effort, a watered-downed bill by State Senator Herschel Rosenthal, a Los Angeles Democrat and chairman of the Senate Committee on Energy and Public Utilities, was passed. It said that any merger must "not adversely affect competition."

Merger opponents feared a gubernatorial veto.

Luce, a former political insider with Ronald Reagan and arguably San Diego's premiere Republican blueblood, privately urged Deukmejian not to veto the bill. Deukmejian, whose two gubernatorial campaigns had been aided by Luce's fund-raising ability, reluctantly let the bill become a law without his signature.

The furious legal fight waged by San Diego at FERC and PUC had slowed the process to a crawl. As the 1980s came to a close, so, too, did merger mania nationwide.

Peevey: "We would never have guessed in November 1988 that this would not have been wrapped up by December 1990 .. [With each month], we could just kind of feel it slipping away."

O'Connor: "We knew time was on our side. The age of greed was ending, and the age of defiance was beginning."

More importantly, the age of Deukmejian was ending, and the age of Wilson was beginning. By late 1990 attention had shifted to the Public Utilities Commission, whose members are appointed by the governor.

Although Edison's Peevey says it's a canard to say the Deukmejian-era PUC commissioners were considered safe votes for Edison, others have different views.

Said a tactful Van de Kamp: "I had doubts we'd prevail at the PUC. I thought Edison had tremendous power at the commission because of its political contacts."

Said an equally tactful Bob White, Wilson's chief of staff: "Frankly, I don't think it's any secret that the reputation of the PUC has been brought into question at times."

Between Wilson's election as governor and his inaugural, Deukmejian asked Wilson to reappoint commissioners Stanley Hulett and Frederick Duda, whose terms were set to expire in January and who were thought to be keenly pro-merger. Edison lobbyists made the same request. Wilson sent word to Deukmejian that Hulett and Duda would not be reappointed. The new administration wanted a fresh approach at the PUC.

Enter O'Connor, traveling to Sacramento to talk to the incoming administration about a range of city issues (crime, sewage, clean water, and so forth), including urging the governor-elect to nominate consumer-oriented commissioners to the PUC, possibly a commissioner from San Diego.

The relationship between O'Connor and Wilson is long and complex. They were allies and friends in the 1970s when Wilson was mayor and O'Connor was a physical education teacher-turned-City Council member; more recently, though, the relationship has been chilly for personal and political reasons.

Still, O'Connor garnered a promise that the new appointees would be open-minded and consider the "best interests of the ratepayers," a pledge that she felt signaled a significant shift from the Deukmejian appointees.

Weeks later, Wilson named to the PUC former San Joaquin Valley Congressman Norman Shumway, and University of California, Davis, law professor Daniel Fessler. Fessler, before being nominated, had been summoned to a Saturday meeting with Wilson, White and gubernatorial appointment secretary Terry Flanigan (a former law student of Fessler's). He says he received a stern lecture from Wilson on California's sagging infrastructure. As for the Edison-SDG&E merger, Fessler says Wilson gave no indication of whether it should be rejected or approved, only that it be decided "in the best interests of all Californians."

With that, Fessler was named to the four-year $95,403-a-year post and plunged into the 8000-page record and 1200-page report from the PUC administrative law judges (which urged rejection).

Fessler, a forceful, hard-driving personality who had first met Wilson and White when he applied for a federal judgeship, decided that the merger should be rejected, in part because it did not satisfy the requirements of the Rosenthal bill. He soon convinced the other new appointee, Shumway. The two then set about behind the scenes to slowly convince the three Deukmejian holdovers. The last to come aboard was Mitchell Wilk, long considered by merger opponents to be leaning heavily in favor of approval.

The result was a ringing rejection, announced May 8th, on every ground imaginable: environmental, competitive, financial and consumerist. "Seldom are governmental decisions as unequivocal," said the editorial page of the *Los Angeles Times,* which had remained neutral.

As the decision was being read, O'Connor rushed outside the state building on Van Ness Avenue in San Francisco to make a triumphant round of calls via a cellular telephone. One of the first was a thank-you call to White.

Van de Kamp, who sees his legal arguments reflected in the PUC rejection, believes the decision signals a new day at the PUC: "I think the case tends to establish an independent course for the PUC. They've established they're not in the hip pocket [of the utilities]."

Ditto O'Connor: "Pete [Wilson] has set a very highly ethical tone on the PUC. That was not the case two years ago."

Months later, Peevey is still unsure what happened: "I honestly have to say I don't know what went wrong."

O'Connor, who counts killing the merger as the biggest victory of her 20-year political career, has no such doubts: "For once, the people and the government were on the same side."

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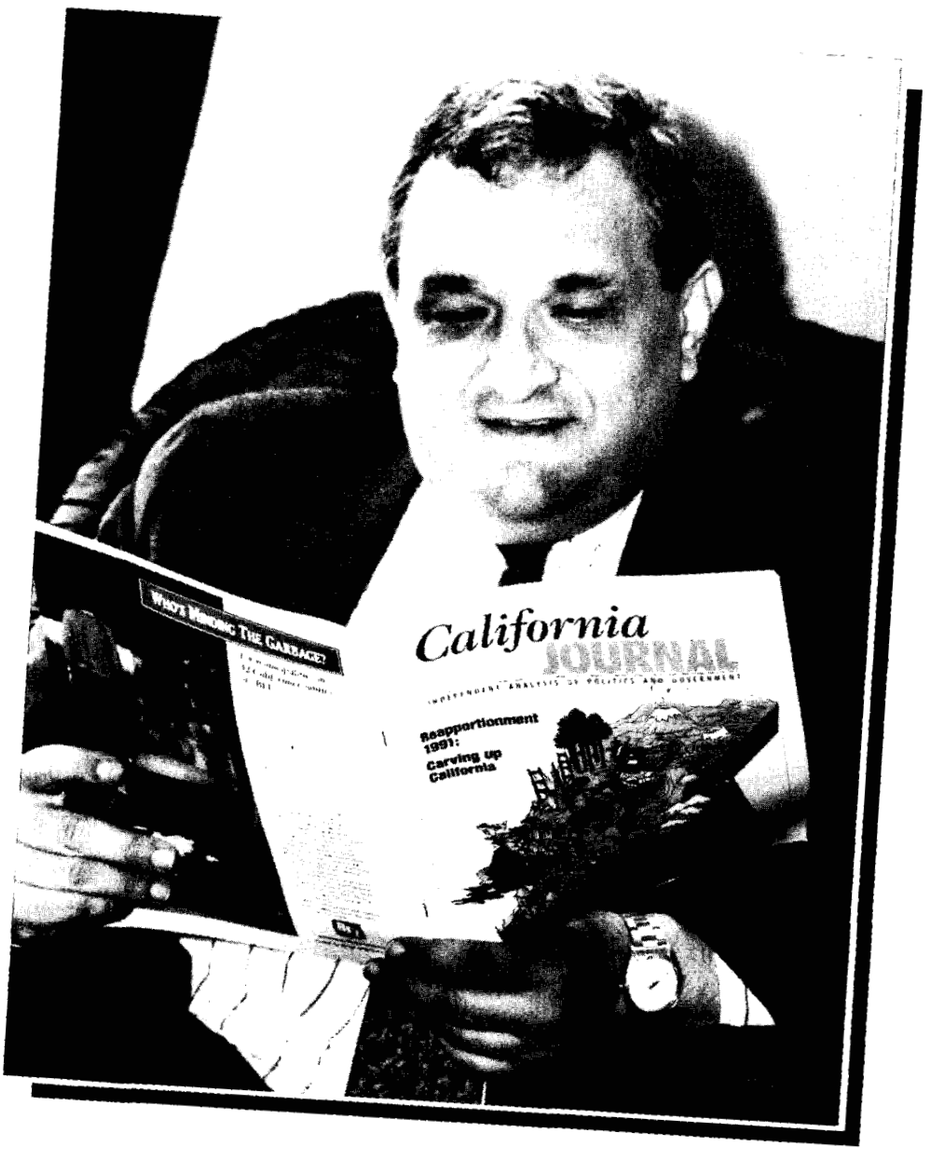
IN FRONT OF THE LEADERS ...



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Polishing the pollster's crystal ball

By Chris Ziegler and Richard Zeiger

The political season is entering its informal stage this summer, as candidates who will not officially announce for months quietly begin to raise money, hire consultants and survey the electorate.

Indeed, the first step for some would-be candidates is to poll registered voters in order to determine if their names evoke enough of a glimmer among the electorate to justify running for office.

The "benchmark poll," as this initial survey is called, is a traditional part of public opinion polling, but the surveying industry also is beginning to use the more sophisticated techniques commonly used by businesses seeking to bring a new granola bar to the market.

A few polling firms are starting to examine the electorate in different ways, measuring the depth of voters' feelings on issues — rather than just support for the issue itself — before deciding if that issue can become a cornerstone of an upcoming campaign. This type of polling is particularly helpful when measuring the importance of issues on which most Americans agree, such as the concern about drugs.

Polls now are designed to measure how important an issue is to certain voters, which issues they feel strongly enough about to change their votes, and just what type of pitch might get them to change their minds, says pollster Chuck Rund of Charlton Research in San Francisco.

Charlton Research also is beginning to use methods typically used for marketing in designing political polls. The traditional process of tabulating aggregate responses is still the standard, but more sophisticated regression, clustering and conjoint analysis techniques sometimes are used.

Regression analysis is used to determine "which set of questions you asked in a survey have the most power to cause people's behavior to change," Rund explains. The respondent is presented with several campaign messages and then asked if he would vote for the candidate based on those positions. The pollster also can connect various messages with different speakers to see who are most effective com-

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Chris Ziegler is a California Journal *summer intern. Richard Zeiger is editor of the* Journal.

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municating certain messages.

Cluster analysis allows the data to "become a world of its own," by grouping respondents according to their answers on a variety of questions. This helps campaigns to target sections of the electorate for such things as direct mail.

In conjoint analysis, respondents are placed in front of computer terminals and asked to choose between issues on the basis of importance. Their selection is then matched against another issue, until the pollster has a list of the respondents' priorities, according to Rund.

These types of analyses, while not new to survey research, are relatively new in political polling. "It's just being used in politics," says Charlton Research analyst Toni Treoford, adding that Charlton Research has used conjoint analysis or a couple of times.

Rund argues these special methods of gathering data should be included among traditional polling techniques because the electorate is less predictable than in the past. "People are changing faster than politics," Rund says of the increased need to study trends.

Most firms, however, do not use these more complex methods for political polling. Republican pollster Arnie Steinberg believes complicated techniques should be used for surveys on such areas as health or the law. "In the end, the real question is what you are going to do with the results," Steinberg says.

"You can't sell the non-obvious in politics," adds Republican pollster Dick Dresner of Dresner Sykes and Townsend. Politicians often are unwilling to accept anything other than direct correlations between voters and candidates or issues, Dresner believes.

While not in favor of fancy types of analysis for political surveying, Dresner Sykes and Townsend also have begun experimenting with different ways of grouping the electorate. To identify voters by issue instead of by party registration, gender or other such variables, the firm presents the respondent with a list of several currently hot issues or those issues important to the candidate, and asks if he would vote for the candidate, Dresner says. This allows the pollster to see where support lies for which issues, and then target those voters.

For races in California, Dresner Sykes and Townsend started heavily targeting potential absentee voters in the 1990 gubernatorial race between Governor Pete Wilson and former San Francisco Mayor Dianne Feinstein. Because California registration rolls are available on computer, along with an individual's voting history, Dresner claims he was able to get a list of registered voters who did not vote in the 1986 gubernatorial race, and convince one million marginal Republicans to vote for Wilson.

One of the biggest changes in public opinion surveying has come with the increased use of computers. "What you are seeing more and more in the business is computer-assisted interviewing," says Republican pollster Bob Moore of Moore Information. In phone interviews, the interviewer uses the computer to provide the series of questions and to process the answers. This speeds up the interviewing process and eliminates labor used to tally answers on paper.

The computer also can be programmed to assure that questions are organized randomly, so the pollster can see what respondents really think about a question, and are not being biased somehow by the interviewer.

"One new thing is we're really able to get instant information," Dresner says, of the ability to examine survey results "as it's being collected."

Now, with modems and faxs, polling firms send the campaign the results of a survey within hours of it being completed, allowing candidates to change strategies quicker than in the past. Dresner said he can start a poll at dinner time and deliver it to a campaign before the night is over.

Besides speeding up the surveying process, technology also has caused polling to become less labor intensive and, thus, less expensive. A benchmark survey of 1000 interviews at approximately 15 minutes per interview will cost between $30,000 and $40,000. A tracking survey, which is done each night for four to six weeks before the election to measure the campaign's progress, will cost about $1200 to $1400 per day, Moore says.

That same benchmark poll done 10 to 15 years ago would cost $5000 or $10,000 more, Moore Information vice president Tom Eiland estimates.

"The electronics world has aided the polling business enormously," Rund says.

With technology speeding up surveying and making it cheaper, it has become easier for pollsters to set up their own polling businesses. Some new firms do not even do their own polling but buy a list of phone numbers and then hire subcontractors to do the interviewing, says pollster Michael LaVelle of Arthur J. Finkelstein and Associates in New York, which does polling and campaign management for Republicans. This allows the firm to maintain a low overhead, but, in LaVelle's view, makes them unreliable sources of information. "A lot of polling companies have no clue" about what their data means for a candidate, he says.

With political polling become more sophisticated and the costs lower, it would appear that the number of surveys would increase. But this is not necessarily so. A candidate's decision to hire a pollster is generally more philosophical than reasons of cost. California Congressman Mel Levine, a Los Angeles Democrat who is contemplating running next year for the U.S. Senate seat held by Alan Cranston, has never used a pollster, says Levine's administrative assistant Bill Andresen. "Mel's philosophy in the past is that they're [polls] not all that useful in political races like this. All they are is name recognition tests. We don't need to pay a pollster to know Mel's the least-known candidate," Andresen says, adding that Levine believes he already knows what issues concern Californians.

Pollsters' views on candidates' polling dependency and on the need to do public opinion polling are mixed. Stein-berg is of the belief that, "Generally speaking, a serious campaign is not without survey research." However, Steinberg adds that he does not tailor his survey results to match the desires of the campaign. "What our clients are looking for is an independent view, even if they don't like what I say," he says.

LaVelle says that the increased use of political polling has made it self-perpetuating. "At one time it certainly gave you a leg up, but now you must do it because everyone else is doing it."

Most campaign consultants view polling as simply another tool to use to get their candidate elected or their proposition passed. "It's a road map," says Democratic consultant David Townsend. "Not having a poll is like not having a road map and ending up in the Bronx."

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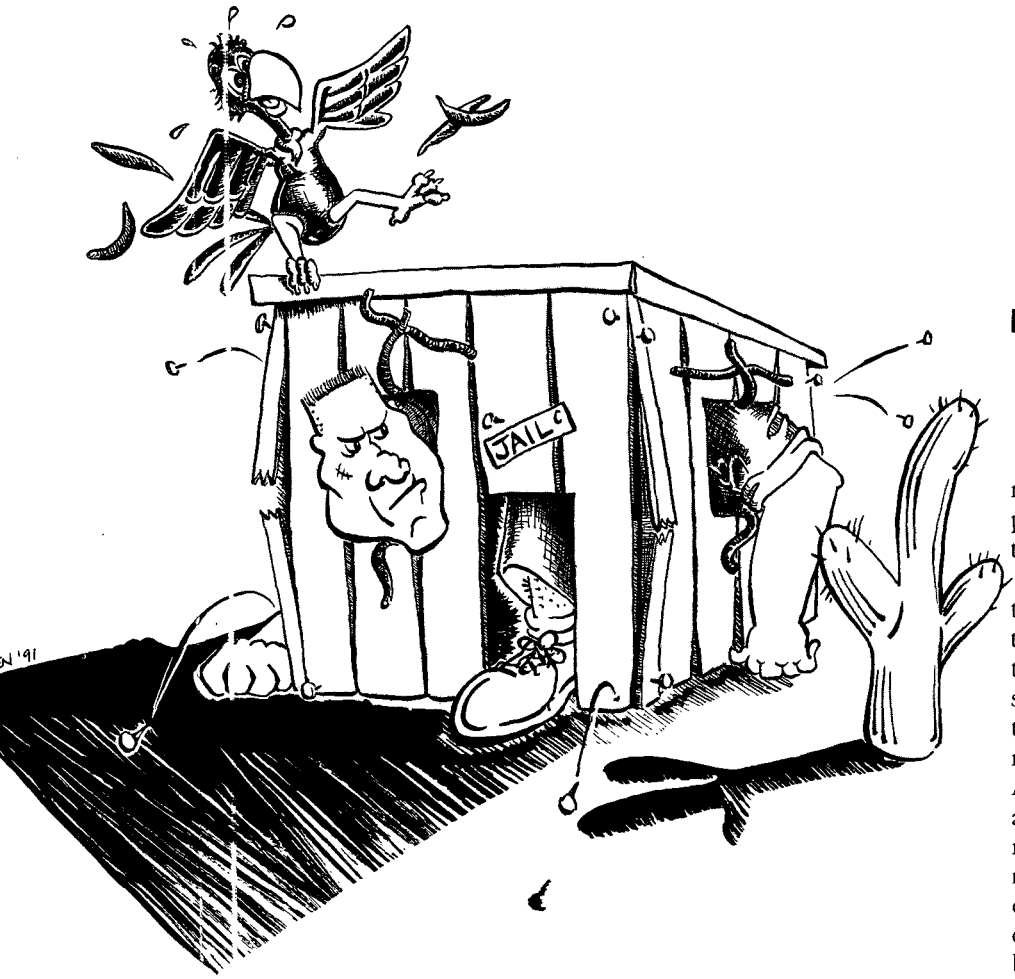

Bursting their bolts

Counties scrounge for jail funds

By Lee Romney

The largest capital project ever undertaken by San Diego County sprawls across the yellowed expanse of Otay Mesa: a state-of-the-art jail whose modular pastel interior of stainless-steel fixtures, bullet-proof glass, and opaque light for the time being holds only a skeleton staff.

The $80 million East Mesa Detention Facility was launched in 1986 with the help of state construction bonds to take some pressure off the nation's second-most crowded jail system. While the facility, designed to hold 1500 inmates, has been largely complete since April, an issue now haunting San Diego and other counties across the state remains unresolved: how to finance the mounting expense of jail operations during a budget crisis that is worsening daily. Counties that could not afford to build new jails to begin with face the double duty of operating overstuffed, archaicly designed facilities while battling the lawsuits those conditions have spawned.

While about $1.5 billion in voter-approved bonds have gone toward jail construction since 1982, counties are on their own when it comes to the greater burden of operating costs, which in East Mesa's case are expected to exceed the cost of construction by 19 times over the next 30 years.

As the number of inmates in the state's county jails has skyrocketted from 36,691 in 1982 to an estimated 75,952 this year, an increasing number of facilities — in 22 counties to date — face court-imposed population caps to keep down overcrowding. While the caps have led those counties that could afford to match state bonds to build

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new jails, now coffers are empty at both levels of government, and voter-rejection of the latest jail-bond measure in November 1990 does not bode well for the building boom.

With their ability to raise new funds hampered by state law, counties are being forced to consider alternatives to incarceration more seriously. While that may constitute a new approach to some, the most embattled feel they have tried everything and still are losing the race. For them, nothing short of a radically altered approach to crime prevention will stem the explosive problem.

Pressure to open its newly constructed jail has led San Diego County, as well as several others, to propose a staff-inmate shuffle that closes some facilities down to help finance the new one. The county hopes to lease some of the newly emptied beds to federal or state agencies for added income. While the plan may get San Diego's jail running at some level by December, under the proposal the county would gain only an estimated 410 beds after all transfers are complete — meager reward for a system so beleagured that non-violent misdemeanor offenders have not been incarcerated since 1988.

"We hardly gain anything. It doesn't allow us to change our booking procedures," said East Mesa's chief designer, Lt. Lee Landrum. "We spent a lot of money and gained very little, but this cost too much not to operate it."

The cost of not opening the facility, but merely keeping it "mothballed" and operational with a minimal staff, would run the county $1.4 million a year, said County Special Projects Analyst Chuck Pennell.

San Bernardino County successfully orchestrated a similar shuffle and began moving inmates into its new 1600-bed facility in July. And Contra Costa County recently moved a limited number of inmates into its new facility — a jail that had been slated to open in May 1990 — after striking a deal with municipal and superior court judges for a slice of funding. The county plans to operate the jail at partial capacity for a year in hopes that the 1992-93 budget will bring full funding.

Even with these new facilities up and running, a gargantuan need for more jail space remains unmet. According to a 1990 report to the Legislature by the state Board of Corrections (which administers state bond money and monitors jail construction and design), even after all the construction-bond money that had already been disbursed was taken into account, a $1.03 billion need for new facilities remained.

And about two-thirds of existing facilities exceed their Board of Corrections-rated capacity, despite court-ordered population caps: Of the 144 county jails statewide that hold inmates longer than a mere-overnight stay, 99 — in 36 counties — exceeded their capacity every day in 1990. Statewide, the 1990 board-rated capacity was 52,510; the average daily population was 70,846. And by the year 2000, the Board of Corrections estimates the county jail population will top 125,000.

Already, jail costs have exceeded any other costs faced by counties. According to a report by the California Counties Foundation, the research arm of the County Supervisors Association (CSAC), county jail expenditures increased 303 percent between 1979-80 and 1989-90 — more than double the 145-percent increase of total county expenditures. During that same time, expenditures for probation, viewed as an alternative to incarceration, increased only 44 percent, or slower than the rate of inflation.

Part of the increase is linked to the pressures of overcrowding. Every four in six jail beds added require an additional staff member, said Board of Corrections Executive Officer Norma Lammers. So new facilities, designed on single-stories with electronic lock-down capabilities and central areas where services are delivered to inmates, minimize the amount of supervision needed and save counties staffing costs.

With state bond money for jail construction flowing to counties that could provide some matching funds, planning new jails seemed to offer a way out of the bind. But planning for the millions needed yearly to operate a new facility has proved more complicated. San Diego County's East Mesa facility, for example, will cost about $25 million a year to operate at full capacity.

The state Board of Corrections has required a commitment from counties to operate the jails when they come on line, regardless of budgetary woes, since passage of Proposition 52 — the 1986 jail-bond measure. But the often lengthy construction period makes it difficult to predict future political and financial climates, and according to a recent informal opinion by the state attorney

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general on San Diego County's case, the requirement is not legally enforceable by the state.

"Counties really can't commit for boards [of supervisors] down the line," said Lammers. "Fiscal pictures change. I'm sure no one was predicting the current budget situation."

"At the time the application was made, the supervisors were aware there were not sufficient funds to staff and operate [the jail]," said San Diego County Sheriff Jim Roache. But in June 1988 a county-wide ballot initiative proposing a half-cent sales tax to fund all criminal justice needs was passed by a bare majority of voters. One-quarter of those funds, which now exceed $285 million dollars, would go to offset the operations costs of East Mesa, said Chuck Pennell.

But a court challenge claiming the measure violated Proposition 13 stipulations requiring a two-thirds majority for tax increases has blocked the county from touching the funds, which are still being collected and are quietly accruing 9.2-percent interest. An appeal of an earlier decision in the plaintiffs' favor is currently before the state Supreme Court but a decision is not expected until next spring, Pennell said.

San Diego County's jails are at 150 to 190 percent of their rated capacity, and 93 percent of their inmates are felons, said Roche. Violent misdemeanor offenders make up the remaining 7 percent, but other misdemeanor offenders have not been incarcerated for years. The system is too overburdened. The result: More than 685,000 outstanding misdemeanor warrants haven't been paid, exacerbating the county's estimated $45 million shortfall this budget year.

"No one's going to try to find these people, because I don't have room for them in my jails," Roche said. The problem has led the city of San Diego to investigate opening its own jail for misdemeanor offenders on the East Mesa site, but it still leaves the county overloaded with felons.

In San Diego County's case, one of the only approaches to alleviate the overburdened system was to build a jail so efficiently that fewer staff would be needed to monitor inmates. The facility comes complete with video arraignment rooms to cut down on travel time to court appearances; ample medical, dental and mental-health facilities — although the latter will not be funded immediately — and a design rife with one-way glass and honeycomb configurations that allow one person to monitor several housing units from a central control-room. The building contains no bars. The design contrasts sharply with the county's downtown jail — a six-story structure built in the 1960s, Alcatraz-style, with long halls of barred-cells that can only be monitored by a patrolling deputy.

But modern design cannot cut back on high incarceration rates, and jails continue to fill as quickly as they are built.

"As cells are added, jails fill to meet the capacity," said Dick Simpson, director of the California Counties Foundation's research division. "It's a self-fulfilling prophecy. It just goes on and on and on."

County administrators concur.

Matters outside county control have contributed in part to the county inmate explosion. Although overall crime rates have remained relatively stable, a flood

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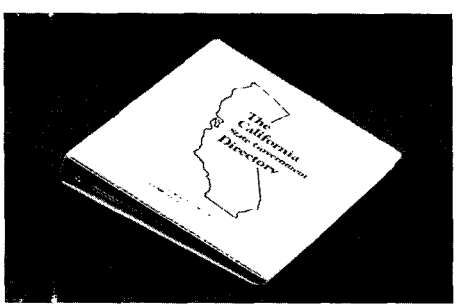

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of criminal legislation at the state level over the past decade has translated into more inmates for counties. According to another California Counties Foundation report, more than 1000 bills were enacted between 1984 and 1989 that made some change in California misdemeanor and felony statutes.

Some of those laws came with mandated sentences; other required state prison sentences, making it less likely prisoners would be released from a county jail on their own recognizance while awaiting sentencing; but most were just plain difficult for counties to ignore in the face of constituents sensitive to public-safety issues.

"We have a very aggressive D.A. who prides himself in putting bad guys in jail," Kern County's O'Connor said of his county's high incarceration rate.

His county, like others including Sacramento, Fresno and Los Angeles, has recently appointed a county-wide committee made up of every criminal-justice official — from the sheriff to municipal and superior court judge, to the chief probation officer to the district attorney — in an effort to come up with recommendations suitable to everyone for managing the county's jail population "within existing legal and financial constraints."

"We're realizing it's not just a sheriff's problem. It's a county-wide problem we've had," said O'Connor. Alternatives being explored by the committee, formed this year, include electronic monitoring of misdemeanor offenders, intensive probation supervision, work release, and a non-jail program for first-time drunk drivers.

But for the likes of San Diego County, which, according to data collected by the County Supervisor Association in June of last year, was — other than Los Angeles County — the only county using all 18 alternatives to incarceration surveyed, these types of committees offer little hope, especially for a system that hardly deals with misdemeanor offenders.

"We have every alternative to incarceration known to mankind," San Diego's Sheriff Roche said. "They work for low- to medium-risk [offenders]. What we don't have is sufficient alternatives to handle high-risk offenders. We still find ourselves in the same predicament."

Sacramento County's new jail, completed in 1989 at a cost of $100 million, surpassed its rated capacity shortly after opening, and was promptly hit with a federal lawsuit for sleeping inmates on the floor in certain areas. The county needs more jail beds, and on May 15th, the Board of Supervisors gave the county approval to begin planning a 50 percent enlargement of the jail, at an estimated cost of $75 million. While the county has already selected an architect, the board also made a gesture away from new construction and directed a county-wide committee similar to Kern's to explore alternatives, said Jack Thompson, the county's facilities-development consultant. While the last jail was built with a hefty contribution in state bonds, it is unlikely any state money will appear this time around.

"That's the $64 question — where we're going to find the financing," Thompson said.

A constitutional amendment that has languished in an Assembly committee for several years in different incarnations may get the boost it needs in support from Governor Pete Wilson later this year and offer counties a glimmer of hope. If approved by a majority of state voters, ACA6 — carried by Assembly Speaker pro Tempore Jack O'Connell, a Carpenteria Democrat — would allow county voters to pass general-obligation bond measures for construction of schools and criminal-justice facilities. While the amendment would be welcomed by county administrators, it does nothing to address the costs of operating the facilities.

For that, said San Diego County's Sheriff Roche, the governor and Legislature should modify Propositions 13 and 4, under which his county's 1988 sales-tax measure is now being challenged. But even that may just delay further problems, said CSAC's Simpson.

"Neither level of government is able to handle the situation. If Proposition 13 were suddenly to go away, that would not solve the problem," he said. "It's taken almost a generation to discover that taxpayers can't build themselves out of the problem of crime. I think we really have to look at the problem of demand, rather than resources to meet the demand."

That means alternatives to incarceration that reach into the early lives of would-be criminals to provide preventative therapies such as early education and prenatal care, Simpson said. While Wilson hinted at this type of preventative budgeting in his state-of-the-state address, Simpson said, the political tendency to push for incarceration is a bad habit that will be difficult to break.

"Everybody from [California Representatives] Barbara Boxer to [William] Dannemeyer is saying, 'Lock them up now. Lock them up,'" Simpson said. "It's the easy vote-getting solution and it's killing us."

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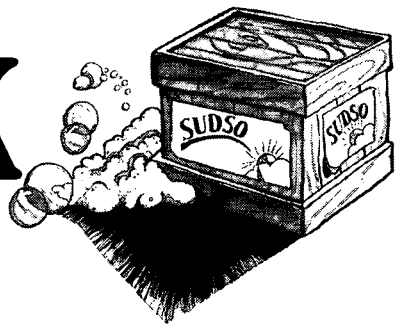

Raising taxpayer awareness

By Joseph F. Micallef

Just because a new state budget has been adopted doesn't mean the state budget crisis has gone away. Deficits, rollbacks, cutbacks, layoffs — all are terms we'll continue to hear throughout the year as legislators continue to try to do what very few of us are capable of doing in our private lives: spend more than we take in.

Yet Governor Pete Wilson has a rare opportunity in the midst of this year-round fiscal chaos to reverse the state budget crisis without adding to the recession. By taking a two-pronged approach — step up audits performed by the Board of Equalization in the short run and, in the long run, better educate the taxpayers about their sales tax obligations — California can stop depleting its own best source of income and easily increase its revenues by $1 billion per year.

There is a personal irony in all of this. I am a former auditor for the Board of Equalization and now make my living helping individuals and businesses navigate their way through the maze of inconsistent board policies and procedures. But who better than a former "insider" to suggest a massive cleanup program for his former fiscal nest?

Let me focus for a moment on the Board of Equalization's Business Tax audit program and offer some confusing, but necessary, statistics:

- 1. Approximately $30 million in additional revenues were generated in fiscal year 1966-67 by auditing 9.6 percent of the eligible accounts with an audit staff of about 250 auditors. This translates into a tax recovery rate per hour of about $32. (The tax recovery rate is calculated by dividing the amount of additional tax assessed to an individual or business by the number of hours spent by the auditor completing the audit assignment.)
- 2. Twelve years later, the Board of Equalization's auditors generated an additional $127 million in revenues, as the audit staff increased to approximately 325 auditors collecting $127.80 in tax recovery per hour. Sounds efficient so far, doesn't it?
- 3. A glitch began to appear in fiscal year 1988-89, however. Although the audit program assessed an additional $418 million in revenue with 830 auditors generating $360 in tax recovery per hour, only about 3 percent of the eligible accounts were audited.

4. Then, in 1989-90, the Taxpayers' Bill of Rights was enacted. The Bill of Rights provided that quota statistics could no longer be maintained by management on individual auditors. Several interesting things happened as a result: The audit staff was reduced by 10 people, the tax recovery rate dropped by $70 per hour, revenues generated by the audit program dropped to $327 million and the number of accounts audited declined to an all-time low of 2.5 percent of those eligible.

In short, in the 23-year period from 1966-67 to 1989-90, the following occurred: The audit staff more than tripled (now numbering 820 auditors); the tax recovery per hour increased more than ten-fold to $330 per hour; tax revenues generated by the audit program escalated over 1000 percent; but — and most significantly — audit coverage of eligible accounts dropped to 2.5 percent.

It doesn't take a graduate of the Wharton School of Economics to conclude that if you are generating $327 million a year by auditing only 2.5 percent of the accounts, you are losing outrageous sums of money by not auditing the other 97.5 percent. Estimating conservatively, if only the next 7.5 percent of the accounts eligible for audit were audited, as much as $1 billion in additional revenues could be recovered. That chunk of change could have eliminated the governor's need to raise the sales-tax rate this year.

Those statistics are symptomatic of an ignorant tax-paying public, kept in the dark by the agency they are trying to please. Consequently, education is the second and most important part of my plan.

The Board of Equalization is intent on spending money to increase its "police force" (auditors), rather than

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explaining its laws and policies to its "customers" (you and me). And that simply doesn't work. As Gerald Goldberg, executive director of the Franchise Tax Board, asserted in a 1985 speech, voluntary compliance is the least expensive form of raising revenue. In fact, it is 48 times more costly to raise money through the audit program.

The Board of Equalization should redirect its efforts toward education which will naturally result in better voluntary compliance in the long term. The agency can take a lesson from the nation's anti-drug program, whose leaders are discovering that education is a simpler, more cost-effective solution than putting everyone in jail. For just as drug usage might be tempting to the uninitiated until they learn all the facts about where they might be headed, so it goes for the innocent taxpayer who is confused by which tax reporting option (and there are several) applies to his or her business. Most people do not want to cheat on their taxes and, in fact, the vast majority of assessments are made as a result of a misunderstanding of the law, not intentional disregard for the law. What happens in most controversial cases is that people never fully understand their tax obligations.

For a long time the board has shown no managerial sensibility or fiscal responsibility. It should not be hesitant to explain to us in open forums what and why we are required to file, the form requirements necessary to support claimed exemptions and how to establish proper reporting and recording controls.

Governor Wilson should appoint a panel now to examine the Board of Equalization's internal practices and procedures. After all, it has operated for over 100 years without any system of checks and balances. Since nine of 10 people know nothing about the existence and/or purpose of the agency, it is easy for the board to assert an autocratic, unilateral manipulation of its fiscal responsibility on the public.

Who knows? The next budget crisis may not be a crisis at all.

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In case of earthquake, call your accountant

By Elizabeth Schilling

Recovery continues to be a rocky road for many of the communities shaken during the October 1989 Loma Prieta Earthquake. Immediately following that 7.1 earthquake, the Central Coast cities of Santa Cruz, Watsonville, San Francisco and others looked to state and federal agencies for relief.

Aid from various agencies has proven vital. Still, many communities say they have had a rude awakening to learn the extent to which they are on their own in dealing with a major disaster. If others will listen, those who have been through the state's most recent disaster have some practical words of advice: Be patient, prepare your accounting systems and be ready to dig deep in local pockets for recovery funds.

While totals of public and private damage from the quake reaches to the billions of dollars, only a portion will be covered in reimbursements from the Governor's Office of Emergency Services or the Federal Emergency Management Agency. As of May, FEMA had paid out $270 million for repairs related to the 1989 quake. Officials say at least another $400 million will likely be paid to local governments as more complicated cases of reimbursement are resolved during the next few years.

While FEMA officials say they must pinch pennies to ensure that things balance out across the nation, many local governments feel they are being dragged through bureaucratic battles

Elizabeth Schilling is a writer living in Santa Cruz.

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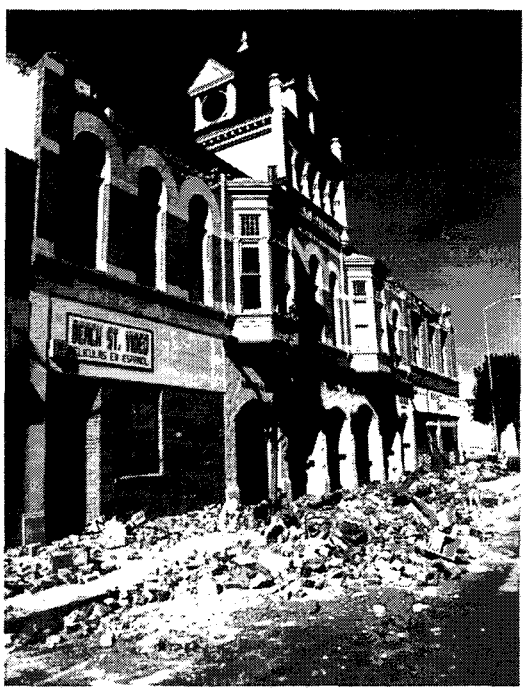
to get what is rightfully theirs. Lawsuits occasionally result, as in the recent case in which the Oakland area won $24 million dollars to replace some housing for homeless and low-income tenants.

"I can't emphasize how extremely cumbersome all this has been," says Mary Ortendahl, an administrative analyst with Alameda County who is charged with coordinating earthquake recovery funds. Her county estimates it is eligible for $8.7 million from FEMA, but so far has received less than half that amount.

"Things get a little muddy about what will be reimbursed," says Ortendahl. She says she has found FEMA repre-sentatives cooperative, but very nit-picky. "Along with our county, they are hoping it's just a matter of paper work, but the further you get from the disaster the harder it is to document."

Ortendahl, like officials in other effected areas, continues to meet regularly with FEMA representatives to resolve claims. For example, still unresolved is reimbursement for hours put in by workers in the Alameda County sheriff's and coroner's departments during the days they served on emergency response at the collapsed Cypress Freeway structure.

Differences of opinion in Watsonville



Watsonville

Watsonville was quick to begin rebuilding its damaged downtown since the Loma Prieta Earthquake.

"From the start we took the position that it's up to us if we want to make a comeback," said Watsonville Finance Director Terry Stigall. "We pushed from the beginning, regardless of knowing if we would be reimbursed."

Watsonville has been paid back almost three-quarters of the $6.4 million of damage it claimed. The sticking points that remain don't have easy solutions.

Disputes in many cases with FEMA center around figures used in damage statement reports (DSRs). Agencies consider FEMA notorious for low-balling repair work. For example, the federal estimate for the Watsonville City Hall was $27,000. The city disputed that figure, hired their own inspector and got an estimate of $116,000 to do the job, Stigall says.

"FEMA sent inspectors from Colorado, North Dakota and Florida who had no understanding of California's labor costs, permit procedures or building code requirements," says Stigall. "We had expected they would have at least been trained in a day class about things to consider in California."

Another landmark site key to Watsonville's recovery is the Porter building. Built in 1880, the 5500-square-foot building of office and retail space remains red-tagged and empty. A fence around the building keeps cars and people away from the danger of crumbling walls that teeter overhead. For nearly two years now Stigall has actively pursued applications with state and federal agencies to attempt to deal with the Porter building.

The first application for funds was to FEMA, but the city was told they were not the proper since the building was under a 25-year lease. Then the lessee applied for funds from the Small Business Administration. This rejected application also brought scrutiny from state historic preservation officials who prohibited the option of demolition. At this point Stigall said FEMA reversed its position, recognized the city as owner and asked for another application. Now Watsonville is stuck between policies of two agencies: The state won't allow demolition, but FEMA won't give money for repair because it believes the building is more than 50 percent damaged.

"After all this time we're told to go back to square one," says Stigall. Although it may not have been the right solution for the Porter building, Stigall says such frustrations make him reflect differently on those cities that moved decisively with wrecking balls within days of a disaster.

—Elizabeth Schilling

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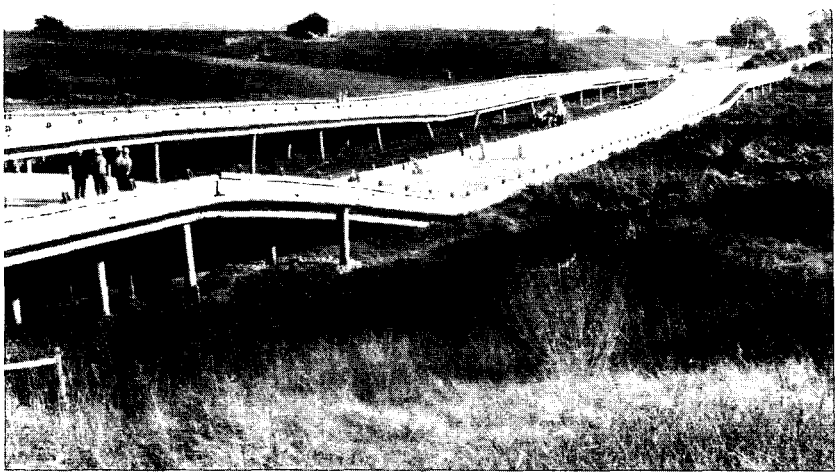
"Even FEMA agrees these costs were directly related to the earthquake, but because our employees didn't put the right code on their time sheets it is not considered properly documented. It's very expensive for the county to go back and find the necessary figures," says Orendahl. "With the next disaster we'll have what we should have had —a separate accounting system that can be activated by pushing a button."



Watsonville

On the matter of accounting, Santa Cruz had in place what Alameda wishes it had. Fire and flood disasters during the '80s gave Santa Cruz the experience in dealing with FEMA, according to Santa Cruz Finance Director Jack Ness. A detailed emergency accounting system has allowed Santa Cruz to recoup $8.5 million in earthquake-related expenses on everything from fire department overtime to meals for visiting building inspectors. Santa Cruz and FEMA are still negotiating on several major items, Ness says.

"We were lucky to know the system," he admits. "When FEMA came to us after the earthquake we knew where to send them and how to assist their engineers and inspectors. I saw other local agencies who weren't prepared or who hadn't identified their problems. They had trouble. If FEMA comes and you don't know what you're doing, then they do things their way, not the way the city wants it done."

Overall, Ness reports that Santa Cruz is satisfied with the money it is getting from both FEMA and the state Office of Emergency Services. Ness and other local representatives hail efforts by the state, which for the first time came to the financial aid of localities. Usually damage reimbursement is covered 75 percent by FEMA with a 25 percent match by local governments, but due to the scale of damage from the Loma Prieta Earthquake the state covered the local share.

"The state has been a great help," says Ness. "But in light of the budget problems before the state, they can't be depended upon for relief in future disasters."

Even with this unprecedented help from the state, Santa Cruz needs much more money to rebuild its downtown that was destroyed in the quake. A major cost is replacing infrastructure — construction that is beyond what FEMA is willing to support. While FEMA will cover the cost of *repairs* to the antiquated underground sewer and water lines, the city believes such work would be senseless on 100-year old pipes. Instead the city opted for a completely new system at a cost of $4 million.

To pay for this, and other infrastructure projects, county voters approved a ballot measure that adds a half cent sales tax for one year. Projections estimate that $18 million will be raised for county-wide recovery projects.

Additional local taxes must now be expected in other communities should an earthquake, flood or other natural disaster strike their home, according to Eileen Baumgartener, assistant director of Plans and Preparedness with OES.

"People have rising expectations for relief with each disaster," Baumgartener observes. "The reality is you can expect some financial assistance, but it won't make you whole. After a disaster most localities are surprised with how costly recovery is."

A frequent controversy in recovery is repair of historic buildings, several of which were damaged in many cities in

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the earthquake. While landmark buildings may be invaluable to the local community, FEMA may view the old building as too costly to save.

"The federal programs will choose the cheaper option — probably demolition," says Baumgartener. "If local governments want to save something, they will usually have to come up with the money."

Issues such as this, and others related to the Loma Prieta Earthquake, have broadened the discussion about what full recovery means, according to Baumgartener.

"A good thing that came out of Loma Prieta is that people can see there is more to an earthquake than just 'response.' The disaster isn't over when you put out the last fire or close the last temporary shelter," says Baumgartener. "After the initial response comes a lengthy recovery and then an even longer-term reconstruction period."

The expense and trauma associated with the last two phases are areas where localities need to do additional emergency planning, according to those who have been through a disaster. How to do so is the subject of many recent and upcoming conferences and publications, such as "Earthquake Recovery and Reconstruction Planning Guidelines for Local Governments," recently published by the Southern California Earthquake Preparedness Project.

Agreeing with the distinctions among response, recovery and rebuilding is Roy Gorup, chief of FEMA's Public Assistance Branch. Local governments are right to expect quick response, but after that, "Our agency is not meant to take care of the full bore of the problems," says Gorup. "Local governments often have expectations that shouldn't be there. They have to recognize they are going to have to supplement."

Whether a local government feels helped or hindered by FEMA is up to each city's administration, Gorup contends. He has seen localities deal with one disaster after another and some, he says, never seem to learn from the experience.

"Dealing with a federal agency is no picnic," says Gorup, "but it's one of those things a city has got to be prepared to do."

While one city may be super-prepared for a disaster that may never come, another, he says, won't even go to the trouble of spending the relief funds approved for them.

"It depends on the administrators of the city and what level of importance they place on preparedness," says Gorup. "When we run seminars we often just get the management types. When they go back I think there is often a failure to pass on what is learned."

Training and organization must be department wide if success is to be ensured, Gorup advises, otherwise preparedness may be as fleeting as job turnover.

In connection with the October 1989 earthquake, Gorup's Region 9 office has processed more than 9,500 claims from about 650 agencies.

Some who weathered the quake advise establishing a personal relationship with someone in FEMA. An excellent idea, says Gorup, but that might be difficult since his staff of 22 is often on the go. In the months since the earthquake his office has also handled major natural disasters,, including typhoons, hurricanes, lava flows and fires, in a region that includes Arizona, Nevada, Hawaii, California, American Samoa, Guam and the Trust Territories.

With all the talk recently about earthquakes, Gorup thinks potential flood disasters are being overlooked. New laws require flood insurance for all structures built in identified flood hazard areas. The federal agency will no longer come to the aid of local governments who have not followed up on private insurance.

"More surprising than what people learned after the earthquake will be what might happen after major flooding," warns Gorup. "Local governments may face a tremendous shock."

Be it flooding, or the inevitable "Big One," much can, and should be done by local governments to prepare, says Gorup.

"There is a lot of strange thinking around disasters," he says. "We talk about preparedness, lots of people even get started. But there's something about human nature that seems to make us forget. After a while people even fail to recognize that destruction ever occurred."

Creative mutual aid goes beyond fire and police

If local governments are disappointed in help from state and federal agencies, they may have better luck turning to each other in times of need.

In the days following the Loma Prieta Earthquake, assistance flowed to the struck area from sympathetic communities around the nation. Charleston, South Carolina, sent police. Orange County sent drivers with backhoes, while San Diego sent structural engineers.

"One of the greatest things that happened to Watsonville was that the City of Long Beach sent us a senior accountant and a grant accountant," says Finance Director Terry Stigall. The telephone call that offered help came out of the blue from someone Stigall had never met. "In the confusion following the quake the last thing we could do was think of a new accounting system. I didn't even know what I needed."

The visiting accountants stayed 10 days and developed a supplemental system that was put into operation immediately. Stigall estimates Watsonville spent about $2000 on the care and feeding of the visitors, and reaped more than $500,000 in returns from FEMA because of the new tracking system.

Mutual aid has become routine between neighboring police and fire departments, often with great cost savings. Stigall thinks the concept should be expanded among other professionals — both for preparedness planning and at the time of emergency.

—Elizabeth Schilling

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Government lobbyists

California spends millions to influence itself

By Curtis Richards

In the final hours of the 1990-91 state budget stalemate — the one that took place a year ago rather than the one that took place last month — lobbyists for counties secured passage of legislation authorizing counties to assess other governmental entities fees for property tax administration and jailhouse bookings.

A creative fee-for-service solution to a serious local government funding crisis? Perhaps. But the new law, which some claim was unfairly sneaked into the budget compromise, sparked intensified battles between local governmental entities. Schools and community colleges sued the state. Individual cities sued their host counties. And the provision ultimately was repealed in this year's budget package.

This skirmish, which one lobbyist terms "crazy," exemplifies a way of life in the Legislature as governments lobby government to protect their interests, and especially to gain their share of the state budget pie.

Local government expenditures for lobbying ranked fifth out of the 20 major categories of lobbyist employers, according to a recent report issued by the secretary of state — the official repository for lobbyist disclosure statements.

Curtis Richards is a Sacramento writer who once worked for the state Legislature.

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Outspending the oil and gas industry, local governments shelled out nearly $18 million worth of public funds to lobby the Legislature and various state agencies in 1989 and 1990. Two local governments (the immense Metropolitan Water District of Southern California and Los Angeles County) and one local government association (the County Supervisors Association or CSAC) each spent more than $1 million. This represents a large increase over the $8.6 million in local-government lobbying expenditures from 1983-84 (see "Government lobbyists," CJ, February 1986). More than 180 employers classifying themselves as "government" spent $17,821,550 in 1989-90 compared with 126 employers that spent $8,546,303 in 1983-84.

To fully understand how much public money is included in the $193 million spent lobbying in 1989 and 1990, however, one must look well beyond the official "government" category. This category generally does not include public utilities, governmental health-care organizations, publicly governed transportation systems and, most important, public schools.

Education employers fall in line immediately behind government, with some 209 self-identified education interests spending a total of $12,485,131 in 1989-90, compared with 92 cmployers spending $5,210,776 in 1983-84. About 80 percent of this $12.5 million comes from public schools and community colleges.

And, several powerful public-employee unions, which collect dues from teachers, state workers and local-government employees, spent $7.6 million to influence legislation in 1989-90, compared with $4.6 million in 1983-84. Standing alone in this classification, the California Teachers Association, which locked horns this year with Governor Pete Wilson over suspension of its voter-approved education spending guarantee (Proposition 98), spent $1,857,510.

Top Ten Governmental Entities

	1983-84	1989-90
Metropolitan Water District	227,425	1,515,713
County Supervisors Assn.	162,593	1,176,832
Los Angeles County	729,390	1,071,610
Orange County	344,168	799,854
Los Angeles City	605,267	707,118
League of Cities	607,247	604,936
San Bernardino County	187,045	602,326
San Diego County	322,091	452,318
Alameda County	207,085	365,834
Santa Clara County	156,270	348,988

Additionally, the state spends untold amounts of money to lobby itself. State agency lobbyists do not have to register with the secretary of state or file disclosure statements. Every state department has its own legislative unit, from the Department of Alcohol and Drug Abuse to the Water Resources Control Board. And the two publicly funded university systems — the nine-campus University of California and the 20-campus California State University — not only have central-office lobbying teams, they also have a "campus and community relations" officer, or some such lobbyist, assigned to each campus.

"I think this is an abuse and misuse of taxpayers monies," charged Lee Phelps, president of the 14,000-member Alliance of California Taxpayers-Involved Voters. "We pay taxes to support legitimate functions of government, not to have those who draw salaries to appear before committees, to buttonhole legislators and pick more money out of our pockets."

It is "absolutely not" proper for government to lobby government, according to Phelps, a retired military officer who volunteers his time to run ACT-IV. "I think it's totally wrong. If it isn't damned illegal, it should be. I believe in sweet reason and persuasion aimed at the people who bear the burden, not those who inhabit their governmental structure."

Top Ten K-12 Associations and Districts

	1983-84	1989-90
CA School Boards Assn.	383,772	1,153,247
Los Angeles Unified Schools	434,960	1,005,094
Assn. of CA School Administrators	634,700	825,139
San Diego Unified Schools	228,745	363,097
Long Beach Unified Schools	80,788	351,375
L.A. County Office of Education	408,432	318,688
San Francisco Unified Schools	50,398	254,271
S.D. County Office of Education	191,327	246,872
Kern County Super. of Schools	66,886	230,456
Clovis Unified Schools	—	204,573

"Tax consumers — those who depend upon tax revenue for their income, such as public employee unions, teachers unions, local governments — outnumber taxpayers in committee hearings and lobbying activities by a factor of about 100 to one," continued Phelps, who sees a need to "severely limit the ability of the Legislature to do more than the minimum necessary to serve the population collectively."

Not everyone shares this view.

"I think anyone who has an interest in the Legislature is going to try and lobby the Legislature," said Ruth Holton, California Common Cause lobbyist for the past two years. "Some raise the question, 'Should public dollars be spent on lobbying?' I don't think anything is wrong with it. Clearly, local governments and state agencies have a lot of interest. They have opinions that certainly need to be heard and expressed."

Common Cause, which has "an interest in ensuring that anyone who gets paid to advocate for specific legislation gets registered as a lobbyist," reported spending nearly $500,000 lobbying in the past two years. ACT-IV reported no lobbying expenses for the same period.

"There is a common idea of lobbyists as a sleazy group of people, smoking cigars, cutting deals in backrooms," Holton said. "Actually, lobbyists convey information, in this case for the interests of cities, counties, universities. They need someone to follow the issues and represent their interests. Lobbyists aren't all sleazy. Unfortunately, the term lobbyist has a sleazy connotation. Everyone has a message to get across. The more complex the issue, the more complex

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the message, he more likely that the entity will have to hire a lobbyist."

And the state's dealings with various other governments is complex.

Government lobbyists are "essential to the future well-being of the state," commented Democratic Assemblyman John Vasconcellos of San Jose. "They've got to be here." Noting that local-government issues "get complicated," he said that in 1990 the Legislature "debated whether to starve the schools or county mental health."

"We've starved the public sector," explained Vasconcellos, chairman of the Assembly Ways and Means Committee. "We were penny-wise and pound -oolish under the awful Deukmejian years, and now we're paying for it."

League of Cities lobbyist Dwight Stenbakken confirmed that "the budget has been the predominant issue" for his organization. "Generally cities have been left alone in that process, but in the last couple of years we've been dragged into it. It's been an important issue."

For schools "the bottom line is that Proposition 98 is only a thin guarantee of a total pot of money," said Kevin Gordon, chief lobbyist for the California School Boards Association. "What's not defined is how the pot is to be split. The challenge for local school districts now becomes a process

Top Five Community Colleges

	1983-84	1989-90
Los Angeles CCD	55,000	270,599
CA Comm. College Trustees Assn.	94,514	134,162
Association of CA Community College Administration	86,042	119,025
Faculty Association of CA Community Colleges	44,919	110,610
San Diego CCD	99,816	104,635

to see who gets the most amount of money." CSBA spent $1,153,247 to lobby the Legislature in 1989-90; Los Angeles Unified spent $1,005,094; and an association of school administrators another $825,139.

"We have a lot of local districts retaining people for the purposes of having input into the process," said Gordon.

"It is unfortunate that people feel pressured to hire a lobbyist to get their message across," Holton remarked. "You shouldn't have to."

Yet, for one East Bay school district (Richmond), retaining a lobbyist last year paid off. The lobbyist, with the assistance of a couple of influential legislators who represent the district, secured a special $6 million budget line-item for the district. Called a "Bridge Financing" program, this district was bailed out with an outright grant rather than the customary repayable loan.

"CSBA is concerned that if everyone goes in and tries to tweak the system around, pretty soon the cow has a third horn. Then, you get this weird offspring called school financing," Gordon said. "Because the formulas have been so adjusted and jerked around over the years that a budget like ours becomes vulnerable because no one understands it. It is so complex that it breeds contempt to the average voter and, frankly, a lot of legislators."

"The myth that education needs more money is exactly that, a myth," Phelps alleged. "They always demand more without any relationship to the quality of the product they are producing, which is decreasing."

Phelps cited the financial troubles of Richmond Unified School district as "one more case of educational bureaucracy spending itself into a bottomless pit, then demanding that the

Top Five Transportation Agencies

	1983-84	1089-90
CA Transit Association	—	333,552
L.A. County Transportation Commission	82,299	311,741
Southern CA R.T. District	46,953	229,573
Bay Area R.T. District	83,575	158,569
A.C. Transit	11,000	114,087

average taxpayer lower their standard of living to bail them out."

"It's not just the schools. The whole institution of government in California has become so bloated with fat," said Phelps, a co-author of Proposition 140. "They think they have some kind of divine right to start each year with the previous year's base point, no matter what conditions are in the private sector. That's fundamentally wrong."

Referring to the bankrupt Butte County, Holton explained that "if Butte didn't pay a lobbyist to represent them in Sacramento, there would be someone in Butte to look at

Top Four Public Utilities

	1983-84	1989-90
East Bay Muni. District	170,379	546,368
CA Muni. Association	150,351	403,286
Sacramento Muni. District	56,392	287,122
San Diego County Water Authority	—	218,791

this, trying to analyze the bills, to follow what's happening in the Capitol. They need to have a liaison. ...Butte can't ignore what's going on in the Capitol. These things don't happen in a vacuum, they need to stay on top of it. Butte County, in the end, probably did better off since they have someone looking out for their interests."

"I think there is a conflict of interest if a lobbyist is representing two local interests which oppose each other," Holton emphasized. "But, if a lobbyist represents several bankrupt counties, that's fine. You just shouldn't be selling clients short. That would be a fundamental conflict of interest."

The number of individual cities hiring lobbyists has "probably gone up a little, but I'm not sure there's been a

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substantial increase," said League of Cities lobbyist Dwight Stenbakken, adding that his organization represents all cities in the state. "A lot of times communities will hire someone to lobby something unique to their city that may not affect all cities."

"It seems like school lobbyists — boards, districts, teachers, administrators — have grown the most," said Stenbakken, an 11-year veteran lobbyist. "I have always been kind of impressed by the numbers of school lobbyists in town."

"I think we're real strong advocates on behalf of education," Gordon said. "When they want to rip you off, that's when we're pretty effective. It's always easier to kill something than to pass something. Really great lobbyists are those who are passing things. We're probably some of the best lobbyists out there in terms of killing something. We're not that great at securing large budget increases to put California on a par with other states."

But not everyone agrees that government ought to spend taxpayer money to lobby itself. Activist Phelps, for one, thinks the effort has given too much importance to public employees. "We've created a new royalty called public employees and public officials," he said. "They should be servants of, not parasites on, the public."

But Assemblyman Vasconcellos took a different angle. "How much money is spent by private interests [to influence the Legislature?] Is that more important than the public interest —than feeding kids, than educating our population, than providing parks and clean environments?"

BALLOT FRONT

A roundup of statewide initiative proposals. All statutes require 384,973 valid signatures; constitutional amendments require 615,958. In parentheses is the deadline for sponsors to submit signatures to county clerks, and the issue of California Journal *that contains a full explanation of each measure. The full texts of all initiatives may be obtained from the Secretary of State's election division, 1230 J Street, Sacramento CA 95814.*

New in circulation:

LEGAL PRACTICES AND SERVICES — an initiative constitutional amendment, sponsored by Ken Steenolsen of Belmont Shores and Lennis Holm of Fallbrook, that permits the exercise of "judicial power" to adopt and approve rules and regulations for practicing law and providing legal services. It also prohibits "judicial power" from adopting rules and regulations that are not consistent with legislative enactments. (November 15th)

VACATIONS, WORKERS — an initiative constitutional amendment, sponsored by Richard Such of Palo Alto, that requires minimum vacation time for specified workers. Essentially, the measure provides that those who have been employed by the same employer for two years and who work a 40-hour week receive four weeks vacation the first effective year; five weeks in the second year and six weeks thereafter. In addition, workers must meet five of six conditions: voted in the last general election, high school graduate or equivalent, claimed no more than 80 hours sick leave during the previous year, possess no driving-under-the-influence or drug convictions within the past 10 years, do not smoke on the job, and commute to work (as specified). Public employers are not required to participate. (December 6th)

Continuing in circulation:

JURIES — an initiative constitutional amendment, sponsored by Judy Osburn of Maricopa, provides that whenever state or local government is a party to any jury trial, the court must inform jurors that, in addition to judging the facts, jurors have the inherent right to judge the law itself. The purpose of this amendment would be to affirm a jury's right to determine if applicable laws are unjust or misapplied, and to vote according to conscience. It also provides that juries be allowed to hear evidence concerning a defendant's motives. (July 22nd)

MARIJUANA — an initiative statute, sponsored by 17 advocates from around the state, that prohibits prosecution for growing, transporting, distributing and consuming marijuana for industrial, medicinal, nutritional and personal use. It also adds marijuana to the list of available prescription drugs and grants amnesty for prior offenses. Finally, it authorizes the Legislature to regulate use in public places and in situations that affect public safety. (July 22nd)

LIMITATION UPON GOVERNMENT ACTIONS AND SERVICE IN GOVERNMENT — an initiative constitutional amendment, sponsored by Robert Lochridge of Redwood City and Eric Harlow of Mountain View, that limits, to eight years, the terms of all members of government who are elected, appointed or hired. It also limits the duration of existing and future statutes, codes, rules, ordinances, regulations and directives to no more than eight years. (September 19th)

INITIATIVE AND REFERENDUM PROCESS — an initiative constitutional amendment and statute, sponsored by Richard Gann of Folsom, that requires either voter approval or passage by three-fourths of each house of the Legislature of any statute providing the manner for circulating, presenting or certifying statewide or local initiative or referendum petitions. It also amends the Election Code to decrease the signature requirement to qualify measures that amend or repeal city or city and county charters. (September 30th)

HEALTH CARE — an initiative constitutional amendment, sponsored by Stephen Schear of Oakland, that makes access to quality health care a right of all California residents. It requires the Legislature to enact a health-insurance program to meet stated standards, including availability. It provides for comprehensive coverage, including preventive long-term care and mental-health services; individual choice of health providers; minimization of waste and inefficiency of administration; and cost controls, with per-capita cost not to exceed the 1992 cost of covered services (increased by the inflation rate). (October 31st)

GAMING COMMISSION. SPORTS WAGERING. LOTTERY GAMES — an initiative constitutional amendment, sponsored by Democratic Assemblyman Dick Floyd of Gardena, that cancels the constitutional prohibition of lotteries and provides that the Legislature consolidate regulation of legal wagering in a single California Gaming Commission. The proposal also authorizes wagering on the results of sporting events, creates a gaming commission to regulate and license sports wagering, requires local authorization for sports wagering establishments (except for specific horse racing track operators), imposes a tax on gross receipts of sports wagering facilities, and provides a California Sweepstakes on-line lottery game. (November 4th)

Source: Secretary of State

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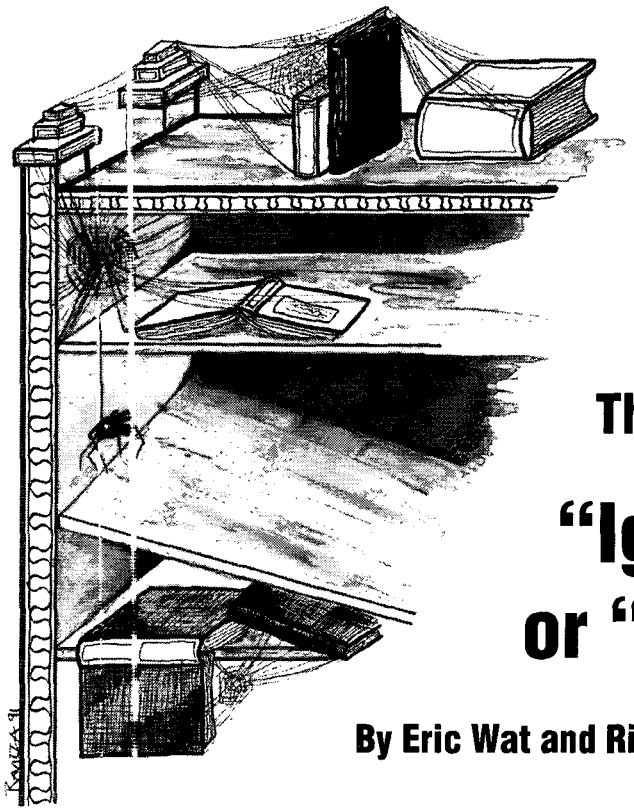

The library lament:

"Ignorance is cheap," or "No bucks for books"

By Eric Wat and Richard Zeiger

Many public school children beg. Some may even steal. But only a few of them can borrow — at least when it comes to getting books from the school library.

The problem is not a lack of libraries. After all, according to "The Crisis in California School Libraries," a 1987 California State Department of Education study (based on 1985 statistics), 92 percent of all public schools had a library, or at least a room filled with books.

Rather, the problem is how each district equips its libraries. The "Crisis" study reveals that only 32 percent of all school libraries were staffed with professional librarians. And the situation has not improved but has actually deteriorated. In 1990 the California Media and Library Educator Association (CMLEA) reported that only 29 percent have professional librarians — a decrease of more than 9 percent in five years.

Even if a school library has one professional librarian (those with more than one are extremely rare), chances are that he or she may not be working full time. Many librarians alsoare assigned some teaching responsibilities. To fill the vacancies, many districts overwhelmingly rely on volunteers and lower-paid personnel who often have little or no library training. Some libraries even have cut down their hours.

Indeed, California schools have only one librarian for every 4000 students, by far the worst ratio of any state in the nation, according to the California librarians' group. In fact, in all but eight states, the ratio is better than one librarian for every 1000 students.

Richard Moore, librarian of Torrance High School in a well-to-do suburb of Los Angeles, has seen the problem first-hand. In an editorial in an October 1990 issue of *School Library Journal*, he wrote, "... our twenty-three K-5 and 6-8 schools have no credentialed librarians nor a district librarian. Each school has a room designated as a 'library,' but K-5 schools don't even have clerks and are staffed by volunteers. Some are open only one day a week."

Staffing is not the only victim of shrinking dollars; the budget crisis of each district also causes a sharp reduction in its libraries' acquisition power. In some of the schools in Moore's district, there is no official district allocation for book purchases and no periodical budget. Consequently, with each passing year, the collection becomes more and more outdated and inadequate for students' research and reference needs. For example, imagine trying to write a report on American involvement in World War II when available books were prepared before Pearl Harbor.

This financial situation also has made it nearly impossible to supply teachers and the curriculum with relevant and up-to-date information. Penny Kastanis, president of CMLEA, heard from the librarian at San Rafael High School that the new book he has just bought has to last him 52 years. A lot can happen between now and the year 2043. Kastanis comments, "Information is doubling and tripling ... and we are not able to keep up."

Ever since the passage of property-tax slashing Proposition 13 in 1978, which made it nearly impossible for school districts to raise money locally, the lack of money has become a major impediment to the growth of public-school libraries. To compensate for the lack of money, many libraries depend on donations and fund-raising events. But income earned like this is not only unstable, and the organization of these events often cuts further into the librarians' already limited time.

The situation for libraries won't improve any time soon. With the state budget hard-pressed and school districts forced to juggle budgetary constraints, less money may be allocated for libraries.

Money isn't the only problem, however. There is also an "image shortfall." Not only do librarians have to compete with other educational programs for a piece of a slowly

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shrinking pie, they also suffer from what the State Department of Education calls a public misconception of the functions that libraries and librarians perform.

The 1987 "Crisis" study emphasized libraries' crucial position when it stated that libraries are critical to educational reform, "including such goals as teaching students basic literacy and higher-order thinking skills, as well as preparing students for careers and lifelong learning. These goals cannot be accomplished unless schools develop and maintain collections of books and other materials and media that can enrich the textbook-based classroom resources. School libraries, staffed by certificated professionals, should be learning centers at the hub of the instructional program and should provide the basic resources necessary for educational reform to succeed in California."

In this respect, libraries are integral, not peripheral, to the education system, librarians argue. Libraries, as a tool of information science, not only supplement the particular academic needs of students but also contribute to their personal and intellectual growth and to the total learning experience. Librarians with adequate training are therefore necessary to instruct students how to make the best use of this tool and to ensure that the libraries are equipped with materials that will best serve students.

This, however, is not the public perception of what a librarian does. That perception is much more dull, passive and menial. Circulation is perhaps the most visible function of librarians, but they actually do more. Librarians are resources who may guide students to relevant information outside the library. They provide support for teachers and curriculum committees in selection of appropriate resources. Moreover, in this age of high-tech information science, certificated librarians also perform many technical functions, such as providing knowledge of electronic data base services and handling audio-visual equipment.

Eunice Stewart, vice president of CMLEA's legal division and a librarian at C.K. McClatchy High School in Sacramento, agrees that librarians are often unfairly placed near the bottom of the financial food chain. She attributes this to people being unaware of what libraries can do for them. Thus, she said, they expect less from librarians. She also believes that, to correct this image problem, she and her colleagues have to engage in public relations as well.

This is exactly what the Pennsylvania School Librarians Association (PSLA) did. Its 1984 president, Sharon Nardelli, realized that if libraries were not perceived as essential to education, they would become the first victims on the budget chopping block. So Nardelli, with several other members of PSLA, spent about four years raising money for six public-service announcements designed to change public misconceptions about librarians. The same six announcements are now aired in 13 states. California is not one of them.

The lack of school libraries in California is most apparent in elementary schools. Educational reform at that level has focused on strengthening classroom-based instruction to the detriment of libraries. Libraries become a place to visit only if students must, as in the case of doing a term paper that requires outside research. Since elementary school students usually do not have to do extensive research, the role of the librarians is de-emphasized in these schools.

Between the school years 1981-82 to 1985-86, elementary schools experienced the sharpest decline in the number of

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people employed as librarians: 36 percent, as opposed to 12 percent in high schools and 7 percent in junior high.

But librarians believe it is at the elementary level where libraries are needed most. Early education emphasizes acquiring literacy skills that are fostered by an adequately equipped library. This is particularly true in California, where there is a large immigrant population for whom English is a second language.

"The only way to teach people to read is by giving them something to read," said Moore. But students are not motivated to visit the library if it is ill-equipped and poorly staffed (or closed).

Nevertheless, the lack of quality libraries at any level will haunt students long after they receive diplomas. The California Library Association found that most college freshmen do not have adequate reference skills. Even in the work force, information-gathering skills in today's information age can well be an important factor in the stability and advancement in a career.

It has been four years since the State Department of Education's call "to reclaim school libraries as vital learning centers." Yet no improvement has been forthcoming. The plight described by the "Crisis" study persists to this day. The same conclusions would be reached had the study been done in 1991, except they might be more dire. Tired of being "the neglected stepchild of educational reform," library reformers are making themselves heard.

Individually Moore has been working on the grass-roots level. He has warned parents of the implications of the problems for their children's education. He has written articles to inform the media and the public, and he urges other librarians to do the same. To get the message across, he has even advocated a boycott by different library associations against using California as a convention site.

Flexing its muscle on a legislative level, CMLEA has initiated and helped in drafting AB 4, the "Lighthouse for Literacy Act." The librarians' organization sponsored two similar bills before, but both were vetoed by then-Governor George Deukmejian. AB 4, its third effort, was introduced late last year by Assemblywoman Delaine Eastin, a Fremont Democrat who heads the Assembly Committee on Education. On June 28 it was approved by the Assembly with a 56-0 vote. It is now up for consideration in the Senate.

The measure would provide one-time grants for: schools that have no school library to purchase "core literature or library materials that are directly related to courses of study offered by the school"; existing libraries to replace outdated materials; existing libraries to establish a library information retrieval system. If funding permits, money also would be used to hire qualified librarians.

In one of its previous incarnations, it was proposed that the bill be financed by new taxes on the pornography industry. The present version does not require any special collection of taxes. Instead, the money for the "Lighthouse for Literacy Act" would come from part of the budget already set aside for each school district. Every year, school districts are reimbursed for student attendance in summer-school programs. Twenty-five percent of the unexpended fund that was designed for this reimbursement purpose would be transferred to the "Lighthouse for Literacy Act Fund". For the fiscal year 1990-91, this is estimated to be $3.8 million, roughly $1 million of which (25 percent) would be used to *finance this bill, were it* to take effect today. However, this is a very unstable source, since the summer-school surplus can range from $5 million to as little as $1 million.

Backers of the bill believe it has a good chance of approval before the end of the year. Eastin became the bill's author after she read the "Crisis" study and went into her own district in Fremont to see if the situation was as horrendous as the study indicated. It was.

In her Capitol office, Eastin maintains a collection of outdated books acquired on that trip and from other librarians. The collection includes a book that boldly predicts humanity's footprints on the moon and a map that still has the name Belgian Congo over an area known for the past 20 years as the Republic of Zaire. There are also books whose spines are so weak and pages so loose that it is impossible to turn a page without contributing further to their dilapidation.

Some of the books also are considered racist and sexist by today's standards. One history book, copyrighted in 1931, describes the people of contemporary African civilizations with condescending language; in a chapter titled "An African Savage", the author declares, "He ['the savage'] deals only with the bigger emotions. Love, hate and hunger probably rule his life, until something happens to make him afraid."

Another book tries to differentiate fundamental gender differences: "Boys are doctors. Girls are nurses ... Boys are strong. Girls are graceful ... Boys fix things. Girls need things fixed." A more advanced book justifies physical education for girls because it will give them the energy to perform house chores and go to PTA meetings.

Eastin contends that these books are rather typical among school libraries, which would rather have something on their shelves than nothing. And without a decent budget, books cannot be replaced. "Especially the science section of the libraries is not much different than when I was a child," she observed. She attributes the present predicament to a "steady erosion" since the governorship of Ronald Reagan.

However, she has confidence things will change under the administration of Governor Pete Wilson. "Governor Pete Wilson has a more urbane understanding of the world [than Deukmejian]," Eastin said during an interview. "He is also surrounded by people who have a greater appreciation of the importance of technological education." Indeed, she sees the future of library information science becoming more technological, and her next bill will be working towards that goal.

Despite such optimism, Penny Kastanis, president of CMLEA, cannot help but see the glass as half empty. Like trying to satisfy a starving congregation with only several loaves of bread and a few buckets of fishes, the state government needs nothing less than a miracle. Too often libraries are merely one more unrecognizable dot in the sea of masses screaming for attention. There simply aren't enough loaves and fishes to go around. A million dollars might be able to "make a dent," but much more is needed to solve a problem that is as widespread as this one.

If the Eastin bill passes, Kastanis conceded, it will be a nice, albeit rare, "statement" on the part of the state government. However, she does not anticipate overnight improvement. Therefore, she will continue to bring the problems up to the State Board of Education as she has been doing for the past decade.

Richard Moore shares Kastanis' pessimism. How could he not? By the next academic year, Moore will take on some teaching responsibilities and will go from a full-time librarian to a half-time one. And he won't be the only one.

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WASHINGTON PERSPECTIVE

By LARRY LIEBERT

California Republicans

The nation keeps an interested, if perhaps wary, eye on California's Republican Party. After all, it has produced national figures as varied as liberal Supreme Court Chief Justice Earl Warren, disgraced President Richard Nixon and conservative President Ronald Reagan.

THUS, ATTENTION IN THE NATION'S CAPITAL is bound to turn soon to the deeper political and ideological significance of next year's Republican primaries for two U.S. Senate seats.

In one race, appointed incumbent John Seymour seems likely to win the GOP nomination against a challenge from zealously right-wing Representative William Dannemeyer of Fullerton. The conventional wisdom views Dannemeyer's challenge largely as an opportunity for Seymour to look "reasonable" by contrast as he gears up for a tough general election contest against likely Democratic nominee Dianne Feinstein. The tough part for Seymour is that he has to get through the primary without leaving conservatives alienated or apathetic toward him.

Seymour's fate is likely to be read as something of a referendum on Governor Pete Wilson, who hand-picked the former state senator as his successor in the Senate.

But a truer, subtler test of the California Republican future may be gleaned in the party's primary for the open Senate seat being vacated by Alan Cranston. At this column's deadline, conservative Representative David Dreier of La Verne had not flatly ruled out entering the contest. But it appeared to be shaping up as a one-on-one between Representative Tom Campbell of Stanford and Los Angeles television commentator Bruce Herschensohn.

At least on the surface, this appears to be a contest between Campbell the moderate (representing the style and values of Wilson, and to some extent, George Bush) and Herschensohn, the conservative (in the undiluted style of Reagan.)

It seems ripe, therefore, to become a test of rising ferment in the California GOP. The state party's rank-and-file activists have seemed uneasy about the transition from the hard-line conservatism of Reagan and Governor George Deukmejian to a new era under the leadership of Wilson. Party hard-liners are not entirely reconciled to a governor who proposes major tax increases, favors abortion rights and opposes offshore oil drilling.

But you won't find the managers for Herschensohn or Campbell eager to make their campaign a referendum on Wilsonian Republicanism.

"I honestly don't feel there's this battle for the soul of the party going on," Kenneth Khachigian, the former Reagan speechwriter and Deukmejian adviser who is running Herschensohn's campaign, said during a visit to Washington with his candidate. "This is not Goldwater-Rockefeller in '64. There is restlessness taking place in conservative ranks. I think Pete will find an opportunity to take care of that as time goes by. We don't see this [campaign] as standing at Armageddon doing battle for the Lord."

Ron Smith, Campbell's manager, was quick to agree. "It's not a holy war," Smith said by telephone from Los Angeles. "That really isn't where people are today."

Neither manager is eager to tilt at windmills in an ideological crusade that could end up attracting many Republicans but alienating many others. It does Campbell no good to write off conservatives and Herschensohn no good to attack his party's governor.

Smith's strategy depends on portraying Campbell as a hard-line conservative when it comes to dollars-and-cents issues of taxes and business. "Tom is such an economic conservative," Smith said. "On other issues, he's in the same ballpark as Wilson." Campbell — a grown-up whiz kid who has been an economist, lawyer, professor and mid-level Reagan administration official — has backing from a stalwart list of corporate CEOs, ex-Reagan Cabinet officers and conservatives such as losing 1990 lieutenant governor candidate Marian Bergeson.

By contrast, Smith argued, Herschensohn is "clearly out-of-step" in his ardent support for drilling off of California's coast and his opposition to the post-Cold War defense cuts supported by Bush.

Khachigian has helped Herschensohn line up some impressive conservative support. Most notably, Herschensohn won early endorsements by Deukmejian and Representative Bob Dornan of Garden Grove. But Herschensohn is determined not to be painted into a right-wing corner.

Proudly calling himself a conservative, Herschensohn describes Wilson as "moderate" but Campbell as "liberal." Shrugging off the significance of Campbell's agreement with Wilson on issues such as abortion and the environment, Herschensohn blasts Campbell for voting against full funding of Bush's Strategic Defense Initiative. He also skewers Campbell as the only California Republican who voted for the civil rights bill that Bush characterized as requiring "quotas."

HERSCHENSOHN, WHO HONED HIS FORMIDABLE debating skills as an unwavering defender of Nixon throughout the Watergate scandal, delivers his pithy conservative aphorisms on KABC-TV's "Eyewitness News" in Los Angeles. That TV soapbox gives him a formidable base in vote-rich Southern California. It allowed him to finish second to moderate Ed Zschau (who was also managed by Smith) in a crowded Republican Senate primary in 1986.

Herschensohn, who visited Washington to raise his profile among decision-makers at the White House and national GOP, vigorously defended his decision to stay on the air until he formally, officially announces the Senate candidacy that he is already promoting. "This is my livelihood," Herschensohn said, contrasting his paycheck with Campbell's. "I don't take money from the taxpayers. He does."

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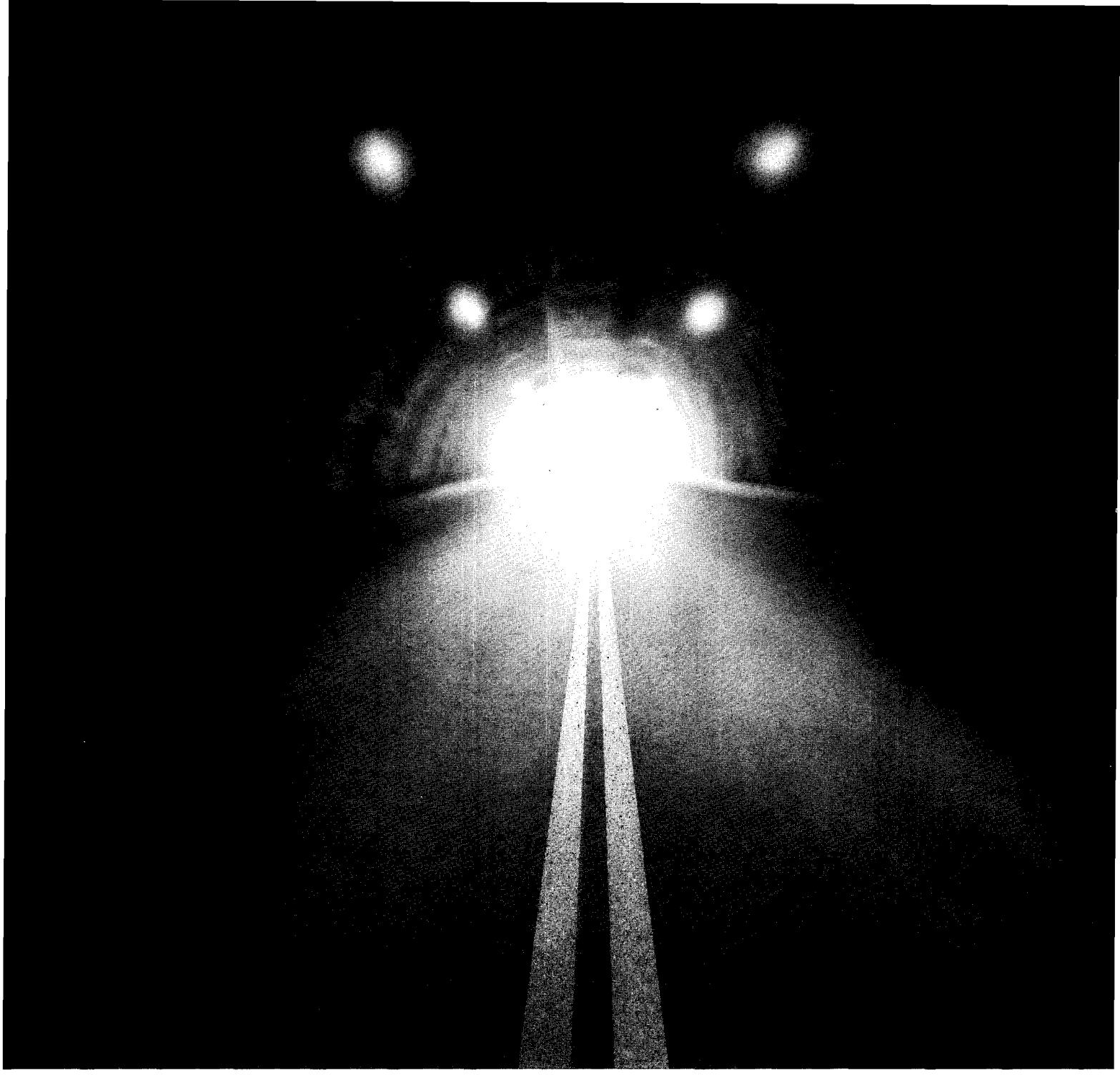

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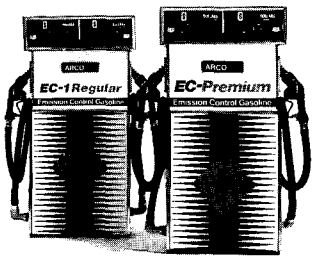

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